ORIGINAL

No. 80358-7

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

WASHINGTON RULE OF LAW PROJECT, a voluntary associational endeavor of Stephen K. Eugster,

Appellant,

v.

ROB MCKENNA, Attorney General of the State of Washington, et al.,

Respondents.



# BRIEF OF RESPONDENTS CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY AND REGIONAL TRANSPORTATION INVESTMENT DISTRICT

CENTRAL PUGET SOUND
REGIONAL TRANSIT AUTHORITY

Desmond L. Brown, WSBA # 16232

CENTRAL PUGET SOUND
REGIONAL TRANSIT AUTHORITY
401 South Jackson
Seattle, WA 98104
(206) 398-5000

KIRKPATRICK & LOCKHART
PRESTON GATES ELLIS LLP

Paul J. Lawrence, WSBA # 13557
Matthew J. Segal, WSBA # 29797
Sarah C. Johnson, WSBA # 34529

KIRKPATRICK & LOCKHART
PRESTON GATES ELLIS LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104
(206) 623-7580

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## I. INTRODUCTION

In enacting SHB 1396, the State Legislature exercised its plenary power over taxation and local governments to solve a regional transportation problem. The legislation required two local taxing districts, one concerned with transit and one concerned with roads, to submit jointly their proposed road and transit plans to voters in one ballot question. Voters in each district vote only on the plan proposed in their district. The Legislature authorized imposition of these local taxes only if voters in both districts approve the joint ballot proposition.

The Legislature's substantive authority to exercise its plenary power over taxation and local governments has not been, and cannot be, questioned in this case. Rather, appellant Washington Rule of Law Project (an associational endeavor of Stephen K. Eugster, hereafter "Eugster") argues that the means through which the Legislature acted violates Article II, § 19 of the Washington Constitution. Article II, § 19 is a type of constitutional limitation that governs the procedure by which the Legislature, or the people in their legislative capacity, may enact legislation. It does not restrict the application of the legislation in practice. Thus, if a bill proposed to the Legislature, on its face, contains only one subject and that subject is disclosed to the legislators in the title of the bill, the Article II, § 19 inquiry ends. Here, SHB 1396 easily meets that test. It

encompasses only one subject: a single ballot proposition to solve regional transportation problems. All parts of the bill are germane to that single subject. And the subject is disclosed in its title.

Eugster's other constitutional claims also fail. Eugster does not have standing to bring a voting rights claim, let alone any claim, because he is not a voter in either of the taxing districts involved. Moreover, no voters' rights are diluted in any way. The superior court properly granted summary judgment in favor of Respondents the State of Washington ("State"), Central Puget Sound Regional Transit Authority ("Sound Transit") and Regional Transportation Investment District ("RTID"). This Court should affirm.

## II. ASSIGNMENTS OF ERROR

### A. Assignments of Error

Sound Transit and RTID assign no errors.

### B. Issues Pertaining to Assignments of Error

1. Article II, § 19 of the Washington Constitution limits legislative bills to one subject, which must be disclosed in the title. This provision does not restrict the Legislature's plenary authority to delegate taxing authority to a local municipality. In 2006 and 2007, the Legislature determined that neither Sound Transit nor RTID should be permitted to impose new taxes unless voters approved both agencies' transportation

plans. Is Article II, § 19 violated when the Legislature conditions RTID's and Sound Transit's taxing authority in this manner?

2. Is SHB 1396 consistent with constitutional principles of free and equal voting, when each resident of the Sound Transit and RTID districts are given one vote on their respective ballot proposition, no person may vote on a proposition if they do not reside in the applicable district, and each vote counts equally to all other votes in each district?

3. Does Eugster have standing to challenge SHB 1396 when he is not a resident or voter in either the Sound Transit or RTID districts, and pays only *de minimis* transitory taxes when visiting those districts?

4. Is the expedited review component of SHB 1396 a valid procedural provision, and is Eugster's challenge to this section unripe because the parties complied with that section?

5. Did the superior court correctly rule that SHB 1396 is constitutional, and properly award summary judgment to Respondents?

## III. COUNTERSTATEMENT OF FACTS

### A. The Legislature's Comprehensive Approach to Transportation

Over the past fifty years, the Legislature has consistently recognized the need for comprehensive regional solutions to transportation issues. In 1957, as the State's urban population grew and people moved to the suburbs, the Legislature determined that cities and counties must act

jointly to achieve, *inter alia*, common transportation goals. Laws of 1957, ch. 213, § 1 (Appendix A). In 1965, the Legislature authorized municipalities to levy and collect taxes for the benefit of public transportation. Laws of 1965, ch. 111, § 1 ("Metro Enabling Act") (Appendix B). The Legislature found that "[a]ll persons in a community benefit from a solvent and adequate public transportation system . . . ." *Id.* In 1969 and again in 1971, the Legislature amended the Metro Enabling Act to permit urban areas and metropolitan municipal corporations to collectively operate regional public transportation systems rather than requiring each municipality to operate separately and individually. Laws of 1969, ch. 255, §§ 1, 2, 7 (Appendix C); Laws of 1971, ch. 296, §§ 1, 3, 4 (Appendix D).

### B. Sound Transit Enabling Legislation and Creation of Sound Transit

In 1992, the Legislature authorized the formation of regional transit authorities ("RTA") to develop and implement regional transportation solutions. CP 169 (Laws of 1992, ch. 101, § 1) ("The Legislature finds that a single agency will be more effective than several local jurisdictions working collectively . . . .").[1] The Legislature

[1] As used herein, "CP" refers to the Clerk's Papers designated in this matter.

authorized the creation of RTA's because "existing transportation facilities in the central Puget Sound area [were] inadequate to address mobility needs of the area." CP 168 (Laws of 1992, ch. 101, § 1).

Sound Transit was formed in 1993 to finance, build, and operate high-capacity road and transit improvements. CP 173-81 (ordinances creating Sound Transit). In November 1996, Sound Transit district voters approved state-authorized sales taxes and a motor vehicle excise tax to fund the *Sound Move* transit plan. *Pierce County v. State* ("*Pierce County II*"), 159 Wn.2d 16, 23, 148 P.3d 1002 (2006); CP 170-71 (Laws of 1992, ch. 101, § 3(7)). *Sound Move* includes over 70 region-wide integrated transportation projects expected to serve over 20 million commuters by 2009. *Pierce County II*, 159 Wn.2d at 23. The projects are a mix of HOV highway access lanes and overpasses, light rail, commuter rail and express bus services.[2]

On May 24, 2007, the Sound Transit board adopted a transportation proposal to construct approximately 50 miles of new light-rail lines to connect Tacoma-Seattle-Lynwood and Seattle-Mercer Island-Bellevue-Overlake\Redmond area. The plan also includes parking capacity improvements to support the commuter-rail system and

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[2] *See Sound Move, available at* http://www.soundtransit.org/x2206.xml.

enhancements to the express bus system.[3] The Sound Transit plan will be part of the ballot proposition to be considered in the November 2007 election.

### C. The RTID Enabling Legislation

Meanwhile, in 2002, the Legislature enacted legislation permitting certain urban counties to create a regional planning committee and to ask voters to approve creation of the RTID. An RTID could then impose voter-approved taxes to finance various road and transit improvements. CP 183-92 (Laws of 2002, ch. 56, §§ 101-107). The legislative findings for the RTID enabling act stated that "[t]he capacity of many of Washington state's transportation facilities have failed to keep up with the state's growth, particularly in urban regions." CP 184 (Laws of 2002, ch. 56, § 101(1)).

In 2002, the legislative authorities of King, Pierce, and Snohomish Counties created a planning committee to develop a regional transportation investment plan for submission to the voters. CP 221-32 (RTID Resolutions). The proposed RTID district boundaries will

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[3] See Sound Transit 2 Regional Transit System Plan For Central Puget Sound available at http://www.soundtransit.org/documents/pdf/about/board/resolutions/2007/ST2%20Plan%20Narrative%20052407.pdf.

encompass, but be slightly larger than, the existing Sound Transit district.[4] The RTID plan will be part of the ballot proposition to be considered in the November 2007 election. CP 296-303 (RTID Planning Committee Resolution).

### D. The Passage of ESHB 2871

In 2006, the Washington Legislature enacted Engrossed Substitute House Bill 2871 ("ESHB 2871"), titled in relevant part "AN ACT Relating to regional transportation governance . . . ." CP 234-75.

The purpose of ESHB 2871 was to integrate and streamline regional transportation systems and governance structures. CP 235-36 (ESHB 2871, § 1). Among other provisions, ESHB 2871 amended the Sound Transit and RTID enabling statutes. CP 246-53 (ESHB 2871, §§ 8, 12) (amending RCW 36.120.070 and RCW 81.112.030 respectively). To ensure that local voters either approved or rejected a comprehensive transportation solution, the Legislature provided that "at the 2007 general election the participating counties shall submit a regional transportation investment plan [RTID] on the same ballot along with a proposition to support additional implementation phases of the authority's [Sound

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[4] RTID MOVING FORWARD TOGETHER: A BLUEPRINT FOR PROGRESS, KING, PIERCE, SNOHOMISH COUNTIES 13-17 (2007), *available at* http://www.rtid.org/blueprint.html ("Blueprint for Progress").

Transit] system and financing plan developed under chapter 81.112 RCW." CP 247 (ESHB 2871, § 8(2)). If the voters passed both plans, both would be approved; if the voters passed only one of the plans, neither would be approved. *Id.*

### E. The Passage of SHB 1396

In the 2007 legislative session, the Legislature revised the specific parameters for the submission of the single ballot proposition to local voters in the November 2007 election to respond to regional transportation issues. This legislation, SHB 1396,[5] was titled:

> AN ACT Relating to a single ballot proposition for regional transportation investment districts and regional transit authorities at the 2007 general election; amending RCW 36.120.070 and 81.112.030; adding a new section to chapter 29A.36 RCW; creating new sections; and declaring an emergency.

The Legislature passed SHB 1396 to provide for voter consideration of a ballot proposition to approve construction of roads and transit systems in a "comprehensive and interrelated manner." CP 279 (SHB 1396, § 1). To that end, Sections 2 and 3 of the legislation established the specific procedures for submission of the Sound Transit and RTID transportation plans to the voters in the 2007 general election in

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[5] A copy of SHB 1396 is attached as Appendix E for the Court's convenience and is also located in the record at CP 277-85.

a "single ballot question seeking approval of both plans." CP 279-84 (SHB 1396, §§1-3).

Sections 2 and 3 also assured that no person will be taxed without a vote, and no person may vote to tax others outside their district. Thus, the RTID plan "shall not be considered approved unless both a majority of the persons voting on the proposition residing in the proposed [RTID] district vote in favor of the proposition and a majority of the persons voting on the proposition residing within the [Sound Transit district] vote in favor of the proposition." CP 280 (SHB 1396, § 2(2)); *see also* CP 283 (SHB 1396, § 3(10)) ("The [Sound Transit] plan shall not be considered approved unless both a majority of the persons voting on the proposition residing within the [Sound Transit] authority vote in favor of the proposition and a majority of the persons voting on the proposition residing within the proposed [RTID] district vote in favor of the proposition.").

Section 4 of SHB 1396 established additional election procedures, and set out a draft of the RTID and Sound Transit 2007 ballot proposition, to be submitted to voters in "substantially" the form provided. CP 284-85 (SHB 1396, § 4). The legislation provided that the governing boards of RTID and Sound Transit would adopt the specific RTID and Sound Transit plans and proposed taxes, prior to submission to the voters. CP

279-84 (SHB 1396 §§ 2-3). In addition, the legislative authorities of King, Pierce and Snohomish Counties would approve the RTID plan before its placement on the ballot.

Section 5 provided for expedited judicial review of any constitutional challenges to SHB 1396 prior to the November 2007 election. CP 285 (SHB 1396, § 5). This section required that any such challenge must be brought in the superior court within 20 days of the legislation's enactment. *Id.* It also provided timelines for briefing and a superior court decision, as well as a framework for expedited appellate review in this Court prior to the election.[6]

On May 15, 2007 Governor Gregoire signed SHB 1396 into law.

**F. Eugster's Challenge to SHB 1396**

Three days after the Governor signed SHB 1396, Eugster filed a complaint for declaratory relief asking the superior court to invalidate SHB 1396. CP 4-25. On June 1, 2007, Eugster moved for summary judgment challenging the constitutionality of SHB 1396. CP 32-35, 117-42. Over the next few weeks, Eugster filed [four] "Declaration[s] of

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[6] The legislation also contained two additional sections, both of which are standard procedural provisions. Section 6 is a standard savings clause declaring that if any provision of the act is held invalid, the remainder of the act is not affected. CP 8 (SHB 1396, § 6). Section 7 contained an emergency clause and provided that SHB 1396 is to take effect immediately upon enactment. CP 8 (SHB 1396, § 7).

Stephen K. Eugster." CP 26-31, 36-47, 59-63. He submitted no additional evidence.

On June 11, 2007, Sound Transit and RTID filed their opposition to Eugster's challenge to SHB 1396. CP 143-303. On the same day, the State filed a cross-motion for summary judgment seeking to uphold SHB 1396 as constitutional. Sound Transit and RTID later joined in the State's cross-motion. CP 313-14.

On July 6, 2007, the Honorable Richard D. Hicks of the Thurston County Superior Court heard oral argument on this matter. That same day, Judge Hicks issued a Memorandum Opinion on Constitutionality of SHB 1396. CP 64-86. The superior court found SHB 1396 constitutional in all respects; ruled that Eugster also lacked standing; granted summary judgment to Sound Transit RTID and the State; and dismissed Eugster's complaint with prejudice. CP 85-86.

Consistent with the expedited appellate review provisions in SHB 1396, Eugster promptly appealed to this Court. CP 87-88. Because the superior court committed no errors, and because SHB 1396 is constitutional, this Court should affirm.

## IV. ARGUMENT

Absent an express constitutional prohibition, the Legislature has plenary authority comprehensively to address transportation issues in the

manner it sees fit. *See Hoppe v. State*, 78 Wn.2d 164, 169, 469 P.2d 909 (1970) ("[O]ur state constitution is not a grant, but a limitation upon the law-making power of the legislature, and unless some express or fairly implied limitation upon the legislature's power to enact can be found in the constitution that power is virtually unrestricted.") (citations omitted).

The Legislature exercised that authority when it created RTID and Sound Transit, and later enacted SHB 1396. In seeking to invalidate SHB 1396, Eugster must identify an express constitutional limitation on the Legislature's acts and "bears the heavy burden of establishing its unconstitutionality beyond a reasonable doubt." *Amalgamated Transit Union Local 587 v. State*, 142 Wn.2d 183, 205, 11 P.3d 762 (2001).

Although the burden is his, Eugster identifies no substantive constitutional limitation on the Legislature's delegation of taxing authority to Sound Transit and RTID in the manner it chose in this case. Eugster's sole arguments are procedural: that the form by which the Legislature enacted SHB 1396 allegedly: (1) violated the Single Subject Clause, Article II, § 19, of the Washington Constitution; or (2) violated the principal of one-person, one-vote. *See Morin v. Harrell*, No. 79971-7, slip op. at 8-9 (Wash. Aug. 9, 2007). Eugster's arguments provide no grounds to invalidate the statute.

SHB 1396 contains only one subject (a single ballot proposition for regional transportation improvements), and the legislative title of the statute disclosed this single subject. Thus, the Legislature followed the correct constitutional procedure in adopting SHB 1396. The Legislature also assured that each person subject to a local tax would get to vote on that tax, and that no person would have a tax imposed on them without a vote. In other words, the Legislature enacted appropriate procedural safeguards to protect and facilitate voting rights. Moreover, Eugster does not reside in either of the taxing districts at issue, will not vote on the ballot proposition at issue, and claims no right to do so. Under these facts, Eugster has no standing to bring this challenge.

For each of these reasons, Sound Transit and RTID respectfully request that this Court affirm the decision of the superior court.[7]

### A. The Legislature Properly Exercised its Plenary Power Over Taxation and Local Governments When It Delegated the Authority to Sound Transit and RTID to Impose Taxes and Implement Their Proposed Roads and Transit Plans only if Voters Approved Both Plans.

To address regional transportation needs, the Legislature may create local transportation entities such as Sound Transit or RTID, and imbue them with those powers or attributes it deems necessary. *See*

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[7] The superior court also properly dismissed Eugster's ancillary claim regarding the statute of limitation in SHB 1396. This claim is addressed at section E, *infra.*

*Wheeler Sch. Dist. No. 152 v. Hawley*, 18 Wn.2d 37, 43, 137 P.2d 1010 (1943) ("In the absence of specific constitutional inhibition, the legislature has plenary power over municipal corporations."). Through this plenary power over municipal corporations, the Legislature may, "amend their charters, enlarge or diminish their powers, . . . overrule their legislative action whenever it is deemed unwise, impolitic, or unjust, and even abolish them altogether in the legislative discretion, and substitute those which are different." *Id.* at 44 (quoting 1 Cooley's Constitutional Limitations, ch. VIII, p. 393 *et seq.* (8th ed. 1927)).

The Legislature's discretion is particularly broad with respect to the authorization of local taxing authority to fund transportation projects. "The power of taxation is an attribute of sovereignty residing in the state alone." *State ex rel. King County v. Tax Comm'n*, 174 Wash. 668, 671, 26 P.2d 80 (1933). Thus, "'[t]he Legislature possesses a plenary power in matters of taxation except as limited by the Constitution.'" *State ex rel. Heavey v. Murphy*, 138 Wn.2d 800, 808-09, 982 P.2d 611 (1999) (quoting *Belas v. Kiga*, 135 Wn.2d 913, 919, 959 P.2d 1037 (1998)). "It is undoubtedly the right of the Legislature, therefore, when vesting municipal corporations with the power to tax, to regulate and safeguard the exercise of this power . . . ." *State ex rel. King County*, 174 Wash. at 672.

By the enactment of enabling legislation for RTID and Sound Transit, the Legislature, consistent with Article XI, § 12 of the Washington Constitution, granted both entities authority to impose local taxes for local purposes. CP 170 (Laws of 1992, ch. 101, § 3(7)); CP 190-91 (Laws of 2002, ch. 56, § 5); *cf. Larson v. Seattle Popular Monorail Authority*, 156 Wn.2d 752, 758, 131 P.3d 892 (2006).[8] The Legislature also chose "to regulate and safeguard" this taxing power when it concluded that the authority to impose local taxes for the RTID and Sound Transit transportation plans should be contingent upon local voters' approval of both plans. *State ex rel. King County*, 174 Wash. at 672. Each of these decisions was consistent with the Legislature's constitutional authority. *Great N. Ry. v. Stevens County*, 108 Wash. 238, 241, 243-44, 183 P. 65 (1919) (Legislature defines terms and conditions by which municipalities may impose taxes); *cf. Pierce County v. State*, 150 Wn.2d 422, 440, 78 P.3d 640 (2003) ("*Pierce County I*") (Legislature may rescind taxing authority previously granted to local governments).

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[8] With respect to local taxes for local purposes, the Legislature may not impose them directly, but may "by general laws, vest in the corporate authorities thereof, the power to assess and collect taxes for such purposes." Const. art. XI, § 12; *see also* Const. art. VII, § 9 ("For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes and such taxes shall be uniform with respect to persons and property within the jurisdiction of the body levying the same.").

### B. The Legislature Followed the Correct Constitutional Procedure in Adopting SHB 1396.

SHB 1396 contains one subject—the submission of the RTID and Sound Transit transportation plans to the voters in a single ballot proposition in the 2007 general election. And each of SHB 1396's seven sections are germane to that subject. That subject is disclosed in the legislative title of SHB 1396. These are the only constitutionally relevant issues.

Article II, § 19 of the Washington State Constitution provides: "No bill shall embrace more than one subject, and that shall be expressed in the title." This provision requires that: (1) a law may not contain more than one subject, and (2) that the subject of the law must be stated in its title. *Wash. Ass'n of Neighborhood Stores v. State*, 149 Wn.2d 359, 368, 70 P.3d 920 (2003). These requirements must be "liberally construed so as to sustain the validity of a legislative enactment." *State v. Grisby*, 97 Wn.2d 493, 498, 647 P.2d 6 (1982) (citation omitted).

1. SHB 1396 has a Single Subject.

For the purpose of analyzing SHB 1396 under Article II, § 19, this Court starts with its legislative title. *Brower v. State*, 137 Wn.2d 44, 70, 969 P.2d 42 (1998).[9]

"A general title may be said to be one which is broad and comprehensive, and covers all legislation germane to the general subject stated." *Gruen v. State Tax Comm'n*, 35 Wn.2d 1, 22, 211 P.2d 651 (1949), *overruled on other grounds by State ex rel. Wash. State Fin. Comm. v. Martin*, 62 Wn.2d 645, 385 P.2d 833 (1963).[10] "Where the title of the act is general and comprehensive, [courts] liberally construe its subject to determine whether it embraces the subject of all the provisions expressed within the act." *State v. Thomas*, 103 Wn. App. 800, 807-08, 14 P.3d 854 (2000). To satisfy the first prong of Article II, § 19, a bill's subsections need only be "reasonably germane" to one another and to the title of the legislation; all subjects that are "fairly within" the title will be

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[9] In contrast, the ballot title would be the operative title to evaluate the actual measure to be presented to the voters. *Brower*, 137 Wn.2d at 70.

[10] A restrictive title "is one in where a particular part of branch of a subject is carved out and selected as the subject of the legislation." *Gruen*, 35 Wn.2d at 23. "An act relating to the venue of civil actions in justice courts," *Nat'l Ass'n of Creditors v. Brown*, 147 Wash. 1, 7, 264 P. 1005 (1928), is an example of a restrictive title. *Accord Amalgamated Transit*, 142 Wn.2d at 210-11 (categorizing title as restrictive).

given force. *Citizens for Responsible Wildlife Mgmt. v. State*, 149 Wn.2d 622, 633, 71 P.3d 644 (2003).

The legislative title of SHB 1396 is:

> AN ACT Relating to a single ballot proposition for regional transportation investment districts and regional transit authorities at the 2007 general election; amending RCW 36.120.070 and 81.112.030; adding a new section to chapter 29A.36 RCW; creating new sections; and declaring an emergency.

CP 278. SHB 1396 has a general legislative title. But whether the Court finds the title to be general or restrictive is not determinative in this case because each section of the act is narrowly written only to facilitate the achievement of the objective expressed in the legislative title. Thus, even if the title were restrictive, each section of the act falls squarely within the subject expressed in the title.

Specifically, Sections 2 and 3 of SHB 1396 amend statutes regarding both RTID and Sound Transit to achieve a "single ballot proposition" to fund a comprehensive roads and transit package to address the significant transportation problems in the Puget Sound region.[11] Sections 2 and 3 provide that the joint ballot proposition must pass in both taxing districts for it to be effective.

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[11] Section 1 of SHB 1396 contains the policy statement of SHB 1396 and is directly related to the remainder of the legislation. Even assuming it was unrelated, as a matter of law the policy statement is not a "subject" under Article II, § 19. *Pierce County I*, 150 Wn.2d at 433-34.

Section 4 establishes the draft form of the "single ballot proposition". That is not a separate subject as the Legislature may both refer a measure to the people, and provide for the procedures for carrying out that election, without raising any single subject concerns. As stated in *Brower*, the Legislature need not "enact a separate piece of legislation to provide for the election" of a measure it has referred to the people. 137 Wn.2d at 72.

Section 5 sets forth an expedited process for judicial review of the constitutionality of SHB 1396. Section 5 is merely a procedural mechanism designed to assure that any challenge to SHB 1396 is resolved before the November 2007 election. Although Eugster contends that this section is "substantive," Eugster Br. at 19, in fact, this section is meaningless standing alone. Provisions that reasonably facilitate the accomplishment of the objective of the legislation as a whole are per se one subject. *Gruen*, 35 Wn.2d at 22-23 ("all measures which will, or may, facilitate the accomplishment of the purpose so stated, are properly included in the act and are germane to its title"); *Citizens for Responsible Wildlife Mgmt.*, 149 Wn. 2d at 638 ("whether the incidental subjects are germane to one another does not necessitate a conclusion that they are

necessary to implement each other, although that may be one way to do so"). Section 5 does not constitute a separate subject.[12]

In summary, all of the provisions of SHB 1396 fall within its subject–the creation of a single joint ballot proposition. None of the provisions of SHB 1396 comprise "individual, disjointed subjects" such that they constitute a single subject violation. *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 636.

2. SHB 1396's Contingency Requirement Does not Create an Article II, § 19 Problem.

Eugster argues that the "contingency requirement" of SHB 1396 constitutes a separate subject to the legislation. But the right to limit the terms under which voters will be allowed to vote to approve the taxes is inherent in the Legislature's broad discretion to authorize local taxation through voter approval. Const. art. XI, § 12; *see CLEAN v. State*, 130 Wn.2d 782, 790, 928 P.2d 1054 (1997); *Brower,* 137 Wn.2d at 54-55. "Section 9, art. 7, and section 12, art. 11, of the state Constitution, providing that the power to assess and collect taxes may be vested in the corporate authorities of all municipal corporations, do not grant such power, 'but leaves it to be granted by the Legislature, attended by such

[12] Sections 6 and 7 contain the severability and emergency clauses respectively, and like Section 5, do not set forth independent, substantive aspects to SHB 1396.

conditions and limitations as that body may prescribe.'" *State ex. rel. Sch. Dist. 37 v. Clark County*, 177 Wash. 314, 322, 31 P.2d 897 (1934) (quoting *Great N. Ry.*, 108 Wash. at 243-44).

In imposing conditions and limitations on RTID and Sound Transit's taxing authority, the Legislature determined that the transportation plans submitted to voters by RTID and Sound Transit shall not be deemed approved unless both a majority of the persons voting on the proposition residing within the Sound Transit district vote in favor of the proposition and a majority of the persons voting on the proposition residing within the proposed RTID district vote in favor of the proposition. CP 247, 253 (ESHB 2871 §§ 8, 12). In the next legislative session, the Legislature found that "regional transportation investment districts [RTID] and regional transit authorities [Sound Transit] are required to submit to the voters propositions for their respective transportation plans on the same ballot at the 2007 general election . . . ." CP 279 (SHB 1396, § 1). The Legislature also stated why, in its judgment, this condition was prudent and necessary: "transportation improvements proposed by regional transportation investment districts [RTID] and regional transit authorities [Sound Transit] within the central Puget Sound region form integral parts of, and are naturally and necessarily related to, a single regional transportation system." CP 278 (SHB 1396, § 1). Therefore, "the

opportunity to propose a single ballot reflecting a comprehensive, systemic, and interrelated approach to regional transportation would further the legislative intent and provide voters with an easier and more efficient method of expressing their will." CP 279 (SHB 1396, § 1). These Legislative declarations are conclusive unless shown to be "obviously false". *Hoppe*, 78 Wn.2d at 169.

If the Legislature is to effect its policy determination that the Puget Sound region's transportation problems require a solution including both the RTID and Sound Transit plans and taxes, the Legislature must be able to enact one complete bill that implements that policy determination. And that complete bill does not involve multiple subjects simply because it includes the proposed policy that the entities are authorized to implement, as well as the conditions under which the taxes supporting that policy may be imposed. *See Brower*, 137 Wn.2d at 71-72 (provision in bill making public vote on stadium financing contingent on private party funding the election is not a separate subject ); *cf. CLEAN*, 150 Wn.2d at 790 (legislation providing that taxes approved by King County must terminate unless county entered contract to lease stadium to professional baseball team). If the Legislature could not condition passage of local RTID and Sound Transit taxes on their joint adoption, it would not be able to achieve the comprehensive transportation solution it seeks. This Court's quotation

from T. Cooley, Constitutional Limitations in *Diversified Investment Partnership. v. Department of Social and Health Services*, 113 Wn.2d 19, 27, 775 P.2d 947 (1989) is instructive:

> The event . . . on which a law may be made to take effect must be such as, in the judgment of the legislature, affects the question of the expediency of the law; an event on which the expediency of the law in the opinion of the law-makers depends. On this question of expediency the legislature must exercise its own judgment definitely and finally. When a law is made to take effect upon the happening of such an event, the legislature in effect declare the law inexpedient if the event should not happen, but expedient if it should happen. They appeal to no other [persons] to judge for them in relation to its present or future expediency. They exercise that power themselves, and then perform the duty which the Constitution imposes upon them.[13]

The subject of SHB 1396 is "a single ballot proposition for regional transportation investment districts and regional transit authorities . . . ." CP 278 (SHB 1396 legislative title). The conditions under which the ballot proposition required by SHB 1396 may be approved by the voters <u>are inextricably part of</u> that subject. To hold otherwise would disable the Legislature's ability to solve complex problems.

3. <u>Eugster Fails to Manufacture a Second Subject in SHB 1396.</u>

Eugster incorrectly suggests that SHB 1396 violates Article II, § 19 because it amends more than one statute or addresses more than one

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[13] *See also Royer v. PUD Dist. No. 1*, 186 Wash. 142, 145-46, 56 P.2d 1302 (1936) (same); *State v. Storey*, 51 Wash. 630, 631-32, 99 P. 878 (1909) (same).

agency. His arguments are not only unsupported by any legal precedent, but would require every bill or initiative to be splintered into unmanageable pieces.

Contrary to Eugster's arguments, legislation routinely amends a substantial number of statutes, each of which must be expressly listed in the legislation. *See* Const. art. II, § 37 ("No act shall ever be revised or amended by mere reference to its title, but the act revised or the Section amended shall be set forth at full length."). This Court has routinely upheld such legislation under Article II, § 19. *See, e.g.*, *Brower*, 137 Wn.2d at 57; *State v. Howard*, 106 Wn.2d 39, 45, 722 P.2d 783 (1985).[14]

Likewise, simply because the subject matter of a statute may address multiple government agencies or jurisdictions does not mean it

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[14] The legislative title in *Brower* identified the specific statutes affected by this legislation: "AN ACT Relating to a mechanism for financing stadium and exhibition centers and education technology grants; amending RCW 82.29A.130,67.70.240, 67.70.042, 39.42.060, 43.79A.040, 36.38.010, 36.32.235,39.04.010, 39.10.120, 67.28.180, and 82.14.049; reenacting and amending RCW 42.17.310; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.14 RCW; adding new sections to chapter 67.70 RCW; adding new sections to chapter 43.330 RCW; adding a new section to chapter 36.38 RCW; adding a new section to chapter 39.30 RCW; adding a new chapter to Title 36 RCW; adding a new chapter to Title 43 RCW; creating new sections; providing a contingent expiration date; providing for the submission of certain sections of this act to a vote of the people; and declaring an emergency." Laws of 1997, ch. 220. The legislative title at issue in *Howard* similarly identified the amended or repealed statutes in that legislation and is attached as Appendix F due to its length.

violates Article II, § 19. For example, the RTA statute itself grants taxing power to various jurisdictions, including county transportation authorities, public transportation benefit areas, metropolitan municipal corporations, and certain cities, to assess and collect taxes to fund transportation improvements. *See, e.g.*, RCW 81.104.150-.180. Article II, § 19 does not require that each such grant of taxing authority to each different local government be passed as independent legislation.[15] The single subject rule "was not intended to prevent the enactment of a complete law on a given subject . . . ." *McQueen v. Kittitas County*, 115 Wash. 672, 682, 198 P. 394 (1921); *see also Charron v. Miyahara*, 90 Wn. App. 324, 337, 950 P.2d 532 (1998) ("A bill's general subject may contain several sub-subjects or subdivisions without violating the Washington Constitution.").

Nor does the fact that SHB 1396 involves more than one agency convert the measure into an attempt at "logrolling". Logrolling, by definition, can only occur if the subjects of the legislation at issue are unrelated such that the legislation as a whole fails to comply with Article

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[15] In fact, the Legislature routinely enacts legislation that impacts multiple agencies. For example, ESSB 6566 affected multiple agencies including the department of ecology, regional transportation planning organizations, major employers, and established a state commute trip reduction board. *See* Appendix G. Likewise, SHB 1694 affected "public transportation agencies, pupil transportation programs, private nonprofit transportation providers, and other public agencies sponsoring programs that require transportation services . . . ." *See* Appendix H.

II, § 19. Here, all sections of SHB 1396 are rationally related to one another, and fall squarely within the same subject—the conduct of a regional vote on a comprehensive transportation system. When deciding whether to vote for SHB 1396, no legislator was forced to "vote for something of which [he/she] disapproves in order to obtain approval of an unrelated law." *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 632. The legislative vote on SHB 1396 addressed one subject: whether this joint ballot approach requiring approval of both a roads and transit package is the most expedient means to solve the transportation problems in the Puget Sound region.

4. SHB 1396's One Subject is Disclosed in its Legislative Title.

To satisfy the second ("subject in title") prong of Article II, § 19, the title of a bill "need not be an index to the contents, nor must it provide the details of the measure." *Id.* at 639. The title must simply give notice "which would lead to an inquiry into the body of the act or indicates the scope and purpose of the law to an inquiring mind." *Id.*

Under this standard, SHB 1396 plainly sets forth its subject in its title—the "single ballot proposition for regional transportation investment districts and regional transit authorities at the 2007 general election." CP 278. Any legislator interested in the RTID and Sound Transit elections

would be on notice that SHB 1396 would address the requirements for passage of the single-ballot question referenced in the title. *Citizens for Responsible Wildlife Mgmt.*, 149 Wn.2d at 639. The title to SHB 1396 satisfies both the letter and intent of the subject in title rule; there is no violation.

5. Eugster's Challenge to the Unamended RCW Provisions Governing the Sound Transit and RTID Elections is Improper.

Eugster additionally argues that RCW 36.120.070(2) and RCW 81.112.030(10) are unconstitutional (unamended by SHB 1396) because they make the passage of the RTID and Sound Transit propositions dependent on one another. This argument fails for the same reasons discussed above – namely, the Legislature's plenary taxing authority over local governments includes the power to enact contingent legislation, and the Legislature's inclusion of the conditions under which voter approval of a ballot measure will be legally effective does not constitute a separate subject apart from the provisions calling for the election.

In addition, Eugster's attempt to apply Article II, § 19 to codified sections of preexisting Washington law makes no sense. Article II, § 19 says nothing about how codified statutes (made up of many bills over time) are ultimately compiled by the Legislature and the Code

Reviser. By its terms, Article II, § 19 applies only to "bills" or legislation passed by the Legislature, and statewide initiatives to the people. *Wash. Fed'n of State Employees v. State*, 127 Wn.2d 544, 552, 901 P.2d 1028 (1995) ("[a] bill is a draft of a law to be enacted by the legislature or by the electors via the initiative process") (internal quotation marks and citation omitted). The purpose of Article II, § 19 is to ensure that a bill's title contains one subject and that the subject is reflected in its title; not to dictate the format of the Revised Code of Washington printed by the Code Reviser.

As such, there is no support for Eugster's claim that RCW 36.120.070(2) and RCW 81.112.030(10), standing alone, violate the constitution.

6. Any Challenge to the November 2007 Ballot Proposition is a Premature Pre-Election Attack, and Fails on the Merits.

To the extent Eugster contends that the joint RTID and Sound Transit ballot proposition contains multiple subjects, this matter is not ripe for consideration. Even if it were ripe, Eugster fails to articulate grounds to invalidate the ballot measure.

First, any Article II, § 19 challenges to the actual ballot title can only be made after the November 2007 election, and then based only on the ballot title presented to the people. *See Coppernoll v. Reed*, 155

Wn.2d 290, 300, 119 P.3d 318 (2005); *Brower*, 137 Wn.2d at 70-72. Any pre-election constitutional review is improper and premature. *See State ex rel. O'Connell v. Kramer*, 73 Wn.2d 85, 86-87, 436 P.2d 786 (1968) ("Ultimate questions as to the validity of [a] proposed initiative measure ... should not come before [the courts] unless and until the people have enacted the measure into law . . . ."). Because the voters in either the Sound Transit or RTID districts may not vote to pass the measure, any challenge to that measure is hypothetical and speculative. *See Coppernoll*, 155 Wn.2d at 300-01 (rejecting justiciability of pre-election challenge on the basis that an initiative might be rejected by the voters).

Second, even assuming the joint ballot proposition were ripe for review, it would nonetheless pass scrutiny under Article II, § 19. Like SHB 1396, the ballot measure contains a single subject: a comprehensive package of regional transportation improvements to solve Puget Sound area transportation problems. Eugster contends that because the ballot addresses multiple transportation projects, it necessarily contains multiple subjects. Eugster Br. at 27-28. Essentially, Eugster argues that voters in the Puget Sound region should not be permitted to adopt a comprehensive plan to address the transportation needs of the region and must instead vote on each of the more than twenty-five individual road improvements,

such as the SR 520 bridge replacement and improvements to I-405, SR 9, US 2 and SR 167.[16]

The use of a comprehensive plan maximizes efficiency by phasing construction, coordinating road improvements with other transit improvements, and ensuring unity and consistency.[17] The Legislature, by requiring a vote on a plan involving multiple projects, determined that piecemeal road and transit improvements would not solve the Puget Sound region's problems. *See* CP 278-79 (SHB 1396, § 1) ("The transportation improvements proposed by regional transportation investment districts and regional transit authorities within the central Puget Sound region form integral parts of, and are naturally and necessarily related to, a single transportation system."). "[T]he legislature is deemed the judge of the scope which it will give to the word 'subject.'" *Kueckelhan v. Fed. Old Line Ins. Co.*, 69 Wn.2d 392, 403, 418 P.2d 443 (1966) (citation omitted), *superseded by statute on other grounds as recognized in State v. WWJ Corp.*, 138 Wn.2d 595, 601, 980 P.2d 1257 (1999).

In sum, the November 2007 ballot proposition, to the extent subject to review here, will contain only "measures which will, or may, facilitate the accomplishment of the purpose so stated," *Gruen*, 35 Wn.2d

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[16] *See* Blueprint for Progress 30-31.

[17] *See, e.g.*, Blueprint for Progress 2.

at 22-23, to authorize and implement a comprehensive regional transportation network. This satisfies Article II, § 19.

### C. SHB 1396's Procedural Safeguards Ensure an Equal and Fully-Counted Vote to All Those Substantially Affected.

The single ballot does not abridge anyone's right to a free and equal vote.

At the outset, the structure of the election on its face creates no constitutional concern because SHB 1396 contains procedural safeguards to ensure that voting rights are protected. Voters in the RTID and Sound Transit taxing districts will cast ballots on the single ballot question. Then all the votes cast will be tabulated to determine whether the RTID transportation plan passed within the RTID District. Next, the votes cast by voters residing within the smaller Sound Transit district will be segregated and separately tabulated to determine if the Sound Transit measure passed.[18] Thus, the votes in each district will be independently and separately tabulated to determine if the ballot measure has passed. CP 280, 283 (SHB 1396, §§ 2(2), 3(10)). Only votes in the Sound Transit district will be counted to determine the passage of the Sound Transit measure. CP 283 (SHB 1396, § 3(10)); RCW 81.112.030(8). Similarly,

[18] The RTID district's boundaries encompass the entire area that will vote in the election. The smaller Sound Transit district lies completely within the larger RTID district.

only votes in the RTID district will be counted to determine the passage of the RTID measure. CP 280 (SHB 1396, § 2(2)); RCW 36.120.070(1).

In light of the above, the statute easily satisfies any equal protection requirement.[19] Eugster erroneously claims that SHB 1396 violates the equal protection rights of voters residing in the smaller Sound Transit district by diluting their votes. Vote dilution cannot occur under SHB 1396 because only the votes of residents of the Sound Transit district will be counted to determine if the Sound Transit proposition is approved; the fact that the RTID district is larger and has more voters cannot affect the outcome of the vote in the Sound Transit district.

The fact that each of the two voting districts may enjoy de facto veto power over the passage of both measures does not violate the Equal Protection Clause. In *Town of Lockport, New York v. Citizens for Cmty. Action at the Local Level, Inc.*, 430 U.S. 259, 266, 979 S. Ct. 1047, 51 L. Ed. 2d 313 (1977), the United States Supreme Court applied rational basis review to a voting rights challenge to a ballot proposition (in contrast to the higher level of scrutiny applicable when the election involves legislative representatives). *Cf. Reynolds v. Sims*, 377 U.S. 533, 555-58, 84 S. Ct. 1362, 12 L. Ed. 2d 506 (1964). At issue in *Lockport* was a new

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[19] The superior court correctly noted that Eugster has not argued that the Washington Constitution provides greater protection than the United States Constitution. CP 76 (Hicks' Op.)

county charter that had to be separately approved by city voters and non-city voters within the county. The Court held that the differing interests of the voting blocks were constitutionally sufficient to support the creation of different voting classes. *Lockport*, 430 U.S. at 272-73.

Here, the Legislature has authorized the creation of two separate taxing districts, each with the opportunity to impose authorized taxes for separate transportation purposes. Requiring a single ballot and approval from both taxing districts is rationally related to the legitimate state interest of creating an efficient, comprehensive regional transportation network. The single ballot serves the state's interest in equality as well as the unified development of road and transit improvements. CP 82 (Hicks' Op.) (recognizing single ballot prevents one district from having to shoulder the entire burden).

Moreover, as the superior court recognized, the single ballot also raises no concern of discrimination. *See Lockport*, 430 U.S. at 268, 272 n.18. Neither district can pass laws to the detriment of the other district. Thus, "[n]either RTA nor RTID can possibly discriminate invidiously against the other." CP 84 (Hicks' Op.). If one district passes the legislation and the other does not, then both fail. RCW 36.120.070(2); RCW 81.112.030(10); *see* CP 84 (Hicks' Op.) ("One may pass the legislation and the other may not but then the legislation fails.").

Nor does the requirement of a joint vote raise any equal protection concerns. The Legislature, in exercising its plenary power over taxation and the creation of local taxing districts, may require overlapping jurisdictions to vote in one election. *Wheeler*, 18 Wn.2d at 43. In *Wheeler*, this Court affirmed the Legislature's right to require the voters in two school districts to vote in one election to determine whether the districts would merge. The Court rejected a challenge from voters in the much smaller district claiming it was unfair to require a joint election since they would be outvoted by voters in the larger school district whose finances would benefit by the merger. Although noting that it was unusual to require two independent governmental entities to hold a joint election, the Legislature was entitled to do so because, "[i]n the absence of specific constitutional inhibition, the legislature has plenary power over municipal corporations." *Id.*

Regardless, there can be no impairment of Eugster's voting rights in this case, as Eugster does not live in either of the taxing districts voting in the election. As this Court held in *Fakkema v. Island County Transportation Benefit Area*, 106 Wn.2d 347, 353-54, 722 P.2d 90 (1986), nonresidents of a public transportation benefit area have no constitutional right to vote on a sales tax to be levied only within the benefit area. SHB

1396 does not, therefore, deny Eugster a free and equal vote since he will not vote in the election at all.

The single ballot is a proper exercise of the Legislature's plenary authority. All those substantially affected will have an opportunity to vote. Each vote will be fully and equally counted. Accordingly, there is no violation of equal protection principles.

### D. The Superior Court Should Be Affirmed Because Eugster Lacks Standing to Challenge SHB 1396.

The superior court also correctly ruled that Eugster lacked standing to challenge SHB 1396. This presents an alternative ground to affirm the superior court.

Eugster brought his claims under Washington's Uniform Declaratory Judgments Act. The Act confers standing only on a person "whose rights, status or other legal relations are affected by a statute . . . ." RCW 7.24.020. Applying the Act, this Court has required that the plaintiff have a real and substantial stake in the outcome of the litigation. *Walker v. Munro*, 124 Wn.2d 402, 411, 879 P.2d 359 (1990) (citing *Nollette v. Christianson*, 115 Wn.2d 594, 599, 800 P.2d 811 (1973)). That stake must be "direct and substantial, rather than potential, abstract or academic." *Id.*

Eugster is a Spokane resident whose only connection to the RTID and Sound Transit districts is at most periodic visits in which he purchases books at the University of Washington Bookstore, gasoline or lodging. He is not a resident of either district. He has no right to vote in either district. The Legislature determined that only local voters would vote on local taxes to address a local (i.e. non-state wide) transportation problem. CP 171 (Laws of 1992, ch. 101, § 3(7)); CP 192 (Laws of 2002, ch. 56, § 107).

Indeed, Eugster's *nom de plume* – the "Washington Rule of Law Project" – demonstrates the wholly academic nature of his claims. Mere theoretical interests are insufficient to confer standing on a litigant who does not live in the area affected by SHB 1396, cannot vote in the election required by SHB 1396, and is not impacted by the transportation problems and proposed solutions that SHB 1396 addresses. Because Eugster has no personal stake in the election that is the subject of SHB 1396, he lacks standing to challenge its constitutionality. *Walker*, 124 Wn.2d at 419 ("The kernel of the standing doctrine is that one who is not adversely affected by a statute may not question its validity."). In simple terms, a citizen does not have standing to challenge a vote in which he has no right to participate, *see Carstens v. PUD No. 1*, 8 Wn.2d 136, 152-53, 111 P.2d 583 (1941) (persons outside of district not entitled to vote even if district

condemns land outside its boundary lines), or a tax he pays only voluntarily and on a transitory basis. *Cf. Calvary Bible Presbyterian Church v. Bd. of Regents*, 72 Wn.2d 912, 916-17, 436 P.2d 189 (1967) (churches who sought to challenge constitutionality of government action lacked standing because churches are not taxpayers); CP 68 (Hicks' Op.).

Eugster relies on an overbroad reading of taxpayer standing cases to assert that he has standing. He argues that any Washington taxpayer has standing to challenge any state law as long as he or she makes a demand on the attorney general before filing suit. Eugster Br. at 14-15. He would write out of the standing inquiry <u>any</u> element of personal injury and <u>any</u> "zone of interest" requirement. *See Seattle v. State*, 103 Wn.2d 663, 668, 694 P.2d 641 (1985); *State v. Carroll*, 81 Wn.2d 95, 103-04, 500 P.2d 115 (1972); *Des Moines Marina Ass'n v. City of Des Moines*, 124 Wn. App. 282, 291-92, 100 P.3d 310 (2004) (association who failed to prove its membership was affected by moorage assessments dismissed for lack of standing).

If, as Eugster alleges, the payment of *de minimis* sales tax was adequate to confer standing, any person wanting to challenge a statute could easily manufacture standing by making a small purchase while temporarily within the jurisdiction. An international business traveler with no ties to Washington State, but who is on a layover at SeaTac Airport,

could challenge any county, district or state law on the basis of the purchase of a package of gum.

Other jurisdictions have, therefore, rejected standing based on purchasers' payment of sales tax. *Williams v. Lara*, 52 S.W.3d 171 (Tex. 2001); *Jacob v. Nebraska*, 685 N.W.2d 88 (Neb. Ct. App. 2004). In *Williams* and *Jacob*, the courts held that plaintiffs could not maintain standing solely on the basis of sales tax payments. *Williams*, 52 S.W.3d at 180 ("Extending taxpayer standing to those who pay only sales tax would mean that even a person who makes incidental purchases while temporarily in the state could maintain an action."); *Jacob*, 685 N.W.2d at 96 (denying taxpayer standing to plaintiff-consumer). Granting standing based on the payment of sales taxes while temporarily in the jurisdiction, "would eviscerate any limitation on taxpayer suits. It would allow a person with virtually no personal stake in how public funds are expended to come into court and bring the government's actions under judicial review." *Williams*, 52 S.W.3d at 180.

Eugster argued below that *Williams* and *Jacob* are inapplicable because those states place the sales tax burden on the retailer. CP 345-46; *see also* CP 69 (Hicks' Op.); CP 151 (Opposition Br.). But like Washington, Texas and Nebraska impose sales taxes on the purchaser. RCW 82.08.050; *Williams*, 52 S.W.3d at 180 ("these courts [from other

states] have determined, under their applicable state statutes, that a sales tax is imposed on the seller of the goods, not on the purchaser. . . . Texas law characterizes our state sales tax differently."); *Jacob*, 685 N.W.2d at 94 (distinguishing Nebraska's scheme from South Dakota and likening Nebraska to Texas); *see also* CP 69 (Hicks' Op.) (recognizing Washington imposes sales tax on the consumer). Thus, *Williams* and *Jacob* are squarely on point.

Accordingly, this Court should also affirm the superior court's dismissal of Eugster's challenge to SHB 1396 for lack of standing.

### E. The Expedited Review Procedure in Section 5 of SHB 1396 is Constitutional.

The superior court correctly determined that Eugster's challenge to the constitutionality of Section 5 of SHB 1396 was both unripe and unavailing on the merits.

Eugster asserts that Section 5 violates Article IV, §§ 1 and 6 of the Washington Constitution because it limits the time period for challenging the constitutionality of SHB 1396 and abridges the superior court's power to hear such a claim. But Eugster, Sound Transit, and RTID all complied with the twenty-day limit for challenging SHB 1396, and the ten-day limit

to file responsive materials.[20] Thus, the superior court correctly observed that Eugster's challenge to Section 5 was not ripe. CP 73 (Hicks' Op.).

Additionally, even if Eugster's claim were justiciable, the superior court correctly determined that Section 5 did not unconstitutionally abridge the court's powers. "[W]hile a superior court may be granted power to hear a case under article IV, section 6, that grant does not obviate procedural requirements established by the legislature." *James v. County of Kitsap*, 154 Wn.2d 574, 588, 115 P.3d 286 (2005) (rejecting Article IV, § 6 challenge to expedited review procedure in the Land Use Petition Act). Section 5 merely establishes the procedural requirements for bringing challenges to SHB 1396.

A statute does not infringe judicial powers unless it prevents a court from exercising those powers and providing an effective remedy to an entitled party. *See, e.g., State ex rel. Cosmopolis Consol. Sch. Dist. No. 99 v. Bruno*, 59 Wn.2d 366, 369, 367 P.2d 995 (1962) (holding that superior courts did not require statutory authority for jurisdiction to review the conduct of public officials). Here, as the superior court observed, Section 5 does not prevent courts from exercising their power to hear challenges to SHB 1396, "only the time in which to seek redress is

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[20] Although he did not challenge SHB 1396 as infringing on the constitutional powers of this Court (CP 4-25 (Complaint)), Eugster also has complied with the appellate review procedures in Section 5.

accelerated." CP 73 (Hicks' Op.). The superior court ruled that Section 5 "emphasizes the importance of timeliness with a strong interest in finality." *Id.* Section 5 helps ensure that full review of SHB 1396 can occur prior to the 2007 general election and that the public will not have to incur the heavy cost to hold an election at risk of subsequent invalidation.

Notably, this Court has repeatedly upheld similar procedural limits in the context of ballot title challenges under RCW 29A.72.080. *See, e.g., Wash. Fed'n of State Employees*, 127 Wn.2d at 559-60 (holding parties who missed deadline failed to establish a protectible interest that overcame statute's presumption of constitutionality); *Kreidler v. Eikenberry*, 111 Wn.2d 828, 839, 766 P.2d 438 (1989) (superior court "had jurisdiction to hear the ballot title challenge, and the appellants had an adequate remedy in the course of legal procedure. They simply failed to use it in a timely manner."). Ultimately, there is a need, when possible, to respect legislative determinations that judicial review occur quickly in necessary circumstances. *In re Recall of West*, 156 Wn.2d 244, 251, 126 P.3d 798 (2006). Here, the Legislature spoke clearly and with good reason to have judicial review of SHB 1396 completed prior to any vote on a joint proposition. The parties have complied with the statute. Section 5 raises no constitutional issue in this case.

### F. If Severability Were an Issue, SHB 1396 Would be Severable.

There is no severability issue before the Court because SHB 1396 is valid in all respects. Even if this Court determined, however, that a portion of SHB 1396 is invalid, the severability clause in Section 6 would preserve the remainder of the act.

This Court generally does not strike down an entire legislative act because one portion is invalid. *See State ex rel. Distilled Spirits Inst., Inc. v. Kinnear*, 80 Wn.2d 175, 176-77, 492 P.2d 1012 (1972).[21] An act is severable unless the Legislature would not have passed the remaining portion without the invalid portion, or "the elimination of the unconstitutional portion so destroys the act as to render it incapable of accomplishing the legislative purposes." *State v. Anderson*, 81 Wn.2d 234, 236, 501 P.2d 184 (1972). The existence of a severability clause, such as Section 6, generally satisfies this test because it "furnishes

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[21] This is particularly true in the context of a potential Article II, § 19 violation, because the drafters of the Washington Constitution did not intend such a violation to invalidate an entire act. *See Two Big Articles: Considered and Passed Upon at Olympia,* TACOMA DAILY LEDGER, Aug. 9, 1889, at 4, *reprinted in* WASHINGTON STATE CONSTITUTIONAL CONVENTION 1889: CONTEMPORARY NEWSPAPER ARTICLES, at 4-83 (Univ. of Wa. Law Library ed., 1998) (noting that the delegates rejected a motion to add "and any violation of this section will render the entire act void" to Article II, § 19).

assurances to the court" that the Legislature would have passed the remaining, valid portions of the act. *Id.*

Moreover, in the context of an Article II, § 19 challenge, this Court repeatedly has upheld the constitutionality of any valid portion of an act that is described in the act's valid title. *See, e.g., Patrice v. Murphy*, 136 Wn.2d 845, 855, 966 P.2d 1271 (1998); *State v. Broadaway*, 133 Wn.2d 118, 128, 942 P.2d 363 (1997). Here, the title of SHB 1396 accurately reflects the single subject of the act – to provide for a single ballot proposition for regional transportation investment districts and regional transit authorities at the 2007 general election. Even if, however, this Court determined that a portion of SHB 1396 was partially invalid, the remainder of the act would be valid.

## V. CONCLUSION

The Legislature properly exercised its plenary powers to require two separate taxing districts to put plans aimed at reducing regional traffic problems on the same ballot in the form of a joint proposition. The Legislature did so by enacting a law, SHB 1396, that had only one subject – the requirement of a joint ballot proposition – that was fully disclosed and to which all the law's sections were reasonably germane. Moreover, the Legislature took care to ensure that the election on the joint ballot protected voters' rights so that no taxes could be approved without an

affirmative vote of the voters in the relevant districts. Finally, the Legislature appropriately set expedited time limits on constitutional challenges to the law to ensure judicial review prior to the planned election. Accordingly, all of Eugster's constitutional challenges to SHB 1396 were properly rejected by the superior court. The superior court's decision should be affirmed on all grounds.

RESPECTFULLY SUBMITTED this 10th day of August, 2007.

CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY

By MJ Segal FOR:
Desmond L. Brown, WSBA # 16232
Attorneys for Respondent Sound Transit

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP

By MJ Segal
Paul J. Lawrence, WSBA # 13557
Matthew J. Segal, WSBA # 29797
Sarah C. Johnson, WSBA # 34529
Attorneys for Respondents Sound Transit and RTID

# APPENDIX A

# SESSION LAWS

OF THE

# STATE OF WASHINGTON

REGULAR SESSION, THIRTY-FIFTH LEGISLATURE
Convened January 14, 1957, Adjourned March 14, 1957

Compiled in Chapters by
VICTOR A. MEYERS
Secretary of State

MARGINAL NOTES AND INDEX
By
RICHARD O. WHITE
Code Reviser

Published by Authority

# CHAPTER 213.

[S. B. 136.]

## METROPOLITAN MUNICIPAL CORPORATIONS.

AN ACT relating to municipal corporations, providing for the creation and operation of metropolitan municipal corporations to provide and coordinate certain specified public services and functions for prescribed geographic areas including two or more cities and towns and all or part of one or more counties.

*Be it enacted by the Legislature of the State of Washington:*

Declaration of policy and purpose.

SECTION 1. It is hereby declared to be the public policy of the state of Washington to provide for the people of the populous metropolitan areas in the state the means of obtaining essential services not adequately provided by existing agencies of local government. The growth of urban population and the movement of people into suburban areas has created problems of sewage and garbage disposal, water supply, transportation, planning, parks and parkways which extend beyond the boundaries of cities, counties and special districts. For reasons of topography, location and movement of population, and land conditions and development, one or more of these problems cannot be adequately met by the individual cities, counties and districts of many metropolitan areas.

It is the purpose of this act to enable cities and counties to act jointly to meet these common problems in order that the proper growth and development of the metropolitan areas of the state may be assured and the health and welfare of the people residing therein may be secured.

Definitions. "Metropolitan municipal corporation."

SEC. 2. As used herein:

(1) "Metropolitan municipal corporation" means a municipal corporation of the state of Washington created pursuant to this act.





Definitions. "Metropolitan area."

(2) "Metropolitan area" means the area contained within the boundaries of a metropolitan municipal corporation, or within the boundaries of an area proposed to be organized as such a corporation.

"City."

(3) "City" means an incorporated city or town.

"Component city."

(4) "Component city" means an incorporated city or town within a metropolitan area.

"Component county."

(5) "Component county" means a county, all or part of which is included within a metropolitan area.

"Central city."

(6) "Central city" means the city with the largest population in a metropolitan area.

"Central county."

(7) "Central county" means the county containing the city with the largest population in a metropolitan area.

"Special district."

(8) "Special district" means any municipal corporation of the state of Washington other than a city, county, or metropolitan municipal corporation.

"Metropolitan council."

(9) "Metropolitan council" means the legislative body of a metropolitan municipal corporation.

"City council."

(10) "City council" means the legislative body of any city or town.

"Population."

(11) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made under the direction of the state census board.

"Metropolitan function."

(12) "Metropolitan function" means any of the functions of government named in section 5 of this act.

"Authorized metropolitan function."

(13) "Authorized metropolitan function" means a metropolitan function which a metropolitan municipal corporation shall have been authorized to perform in the manner provided in this act.

Metropolitan municipal corporations. Authorized.

SEC. 3. Any area of the state containing two or more cities, at least one of which is a city of the first class, may organize as a metropolitan municipal

corporation for the performance of certain functions, as provided in this act.

Metropolitan municipal corporations. Territory included, excluded.

SEC. 4. No metropolitan municipal corporation shall include only a part of any city, and every city shall be either wholly included or wholly excluded from the boundaries of such corporation. No territory shall be included within the boundaries of more than one metropolitan municipal corporation.

Functions authorized.

SEC. 5. A metropolitan municipal corporation shall have the power to perform any one or more of the following functions, when authorized in the manner provided in this act:

(1) Metropolitan sewage disposal.
(2) Metropolitan water supply.
(3) Metropolitan public transportation.
(4) Metropolitan garbage disposal.
(5) Metropolitan parks and parkways.
(6) Metropolitan comprehensive planning.

Unauthorized functions to be performed under other law.

SEC. 6. All functions of local government which are not authorized as provided in this act to be performed by a metropolitan municipal corporation, shall continue to be performed by the counties, cities and special districts within the metropolitan area as provided by law.

Resolution, petition for election—Requirements, procedure.

SEC. 7. A metropolitan municipal corporation may be created by vote of the qualified electors residing in a metropolitan area in the manner provided in this act. An election to authorize the creation of a metropolitan municipal corporation may be called pursuant to resolution or petition in the following manner:

(1) A resolution or concurring resolutions calling for such an election may be adopted by either:

(a) The city council of a central city; or

(b) The city councils of two or more component cities other than a central city; or





(c) The board of commissioners of a central county.

Resolution, petition for election—Requirements, procedure.

A certified copy of such resolution or certified copies of such concurring resolutions shall be transmitted to the board of commissioners of the central county.

(2) A petition calling for such an election shall be signed by at least four percent of the qualified voters residing within the metropolitan area and shall be filed with the auditor of the central county.

Any resolution or petition calling for such an election shall describe the boundaries of the proposed metropolitan area, name the metropolitan function or functions which the metropolitan municipal corporation shall be authorized to perform initially and state that the formation of the metropolitan municipal corporation will be conducive to the welfare and benefit of the persons and property within the metropolitan area. After the filing of a first sufficient petition or resolution with such county auditor or board of county commissioners respectively, action by such auditor or board shall be deferred on any subsequent petition or resolution until after the election has been held pursuant to such first petition or resolution.

Upon receipt of such a petition, the auditor shall examine the same and certify to the sufficiency of the signatures thereon. For the purpose of examining the signatures on such petition, the auditor shall be permitted access to the voter registration books of each component county and each component city. No person may withdraw his name from a petition after it has been filed with the auditor. Within thirty days following the receipt of such petition, the auditor shall transmit the same to the board of commissioners of the central county, together with his certificate as to the sufficiency thereof: *Provided*, That such resolution or resolutions shall be approved by appropriate affirmative resolution of

Vetoed.

Vetoed.

the board of county commissioners of each county, the area of which is affected by said resolution or resolutions.

Metropolitan municipal corporations. Hearings on petition, resolution—Inclusion, exclusion of territory—Boundaries—Calling election.

SEC. 8. Upon receipt of a duly certified petition or a valid resolution calling for an election on the formation of a metropolitan municipal corporation, the board of commissioners of the central county shall fix a date for a public hearing thereon which shall be not more than sixty nor less than forty days following the receipt of such resolution or petition. Notice of such hearing shall be published once a week for at least four consecutive weeks in one or more newspapers of general circulation within the metropolitan area. The notice shall contain a description of the boundaries of the proposed metropolitan area, shall name the initial metropolitan function or functions and shall state the time and place of the hearing and the fact that any changes in the boundaries of the metropolitan area will be considered at such time and place. At such hearing or any continuation thereof, any interested person may appear and be heard on all matters relating to the effect of the formation of the proposed municipal metropolitan corporation. The commissioners may make such changes in the boundaries of the metropolitan area as they shall deem reasonable and proper, but may not delete any portion of the proposed area which will create an island of included or excluded lands, may not delete a portion of any city, and may not delete any portion of the proposed area which is contributing or may reasonably be expected to contribute to the pollution of any water course or body of water in the proposed area when the petition or resolution names metropolitan sewage disposal as a function to be performed by the proposed metropolitan municipal corporation. If the commissioners shall determine that any additional territory should





Hearings on petition, resolution—Inclusion, exclusion of territory—Boundaries—Calling election.

be included in the metropolitan area, a second hearing shall be held and notice given in the same manner as for the original hearing. The commissioners may adjourn the hearing on the formation of a metropolitan municipal corporation from time to time not exceeding thirty days in all. At the next regular meeting following the conclusion of such hearing the commissioners shall adopt a resolution fixing the boundaries of the proposed metropolitan municipal corporation, declaring that the formation of the proposed metropolitan municipal corporation will be conductive to the welfare and benefit of the persons and property therein and calling a special election on the formation of the metropolitan municipal corporation to be held not more than one hundred twenty days nor less than sixty days following the adoption of such resolution.

Election procedure to form corporation and levy tax—Qualified voters—Establishment of corporation—First meeting of council.

SEC. 9. The election on the formation of the metropolitan municipal corporation shall be conducted by the auditor of the central county in accordance with the general election laws of the state and the results thereof shall be canvassed by the county canvassing board of the central county, which shall certify the result of the election to the board of county commissioners of the central county, and shall cause a certified copy of such canvass to be filed in the office of the secretary of state. Notice of the election shall be published in one or more newspapers of general circulation in each component county in the manner provided in the general election laws. No person shall be entitled to vote at such election unless he is a qualified voter under the laws of the state in effect at the time of such election and has resided within the metropolitan area for at least thirty days preceding the date of the election. The ballot proposition shall be in substantially the following form:

Metropolitan municipal corporations. Election procedure to form corporation and levy tax—Qualified voters—Establishment of corporation—First meeting of council.

"FORMATION OF METROPOLITAN MUNICIPAL CORPORATION

"Shall a metropolitan municipal corporation be established for the area described in a resolution of the board of commissioners of ..... county adopted on the ..... day of ....., 19....., to perform from the metropolitan funtions of..... ..... (here insert the title of each of the functions to be authorized as set forth in the petition or initial resolution).

YES ..... ☐

NO ..... ☐"

If a majority of the persons voting on the proposition residing within the central city shall vote in favor thereof and a majority of the persons voting on the proposition residing in the metropolitan area outside of the central city shall vote in favor thereof, the metropolitan municipal corporation shall thereupon be established and the board of commissioners of the central county shall adopt a resolution setting a time and place for the first meeting of the metropolitan council which shall be held not later than thirty days after the date of such election. A copy of such resolution shall be transmitted to the legislative body of each component city and county and of each special district which shall be affected by the particular metropolitan functions authorized.

At the same election there shall be submitted to the voters residing within the metropolitan area, for their approval or rejection, a proposition authorizing the metropolitan municipal corporation, if formed, to levy at the earliest time permitted by law on all taxable property located within the metropolitan municipal corporation a general tax, for one year, of one mill in excess of any constitutional or statutory limitation for authorized purposes of the metropolitan municipal corporation. The proposition shall be expressed on the ballots in substantially the following form:





"ONE YEAR ONE MILL LEVY

"Shall the metropolitan municipal corporation, if formed, levy a general tax of one mill for one year upon all the taxable property within said corporation in excess of the forty mill tax limit for authorized purposes of the corporation?

YES ..... ☐

NO ..... ☐"

Such proposition to be effective must be approved by a majority of at least three-fifths of the persons voting on the proposition to levy such tax and the number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast in the area of the proposed metropolitan municipal corporation at the last preceding county or state general election.

Additional functions—Authorization by election—Procedure.

SEC. 10. A metropolitan municipal corporation may be authorized to perform one or more metropolitan functions in addition to those which it has previously been authorized to perform, with the approval of the voters at an election, in the manner provided in this section.

An election to authorize a metropolitan municipal corporation to perform one or more additional metropolitan functions may be called pursuant to a resolution or a petition in the following manner:

(1) A resolution calling for such an election may be adopted by:

(a) The city council of the central city; or

(b) The city councils of two or more component cities other than a central city; or

(c) The board of commissioners of the central county.

Metropolitan municipal corporations. Additional functions—Authorization by election—Procedure.

Such resolution shall be transmitted to the metropolitan council.

(2) A petition calling for such an election shall be signed by at least four percent of the registered voters residing within the metropolitan area and shall be filed with the auditor of the central county.

Any resolution or petition calling for such an election shall name the additional metropolitan functions which the metropolitan municipal corporation shall be authorized to perform.

Upon receipt of such a petition, the auditor shall examine the signatures thereon and certify to the sufficiency thereof. For the purpose of examining the signatures on such petition, the auditor shall be permitted access to all voter registration books of any component county and of all component cities. No person may withdraw his name from a petition after it has been filed with the auditor. Within thirty days following the receipt of such petition, the auditor shall transmit the same to the metropolitan council, together with his certificate as to the sufficiency of signatures thereon.

Upon receipt of a valid resolution or duly certified petition calling for an election on the authorization of the performance of one or more additional metropolitan functions, the metropolitan council shall call a special election to be held not more than one hundred and twenty days nor less than sixty days following such receipt. Such special election shall be conducted and canvassed as provided in this act for an election on the question of forming a metropolitan municipal corporation. The ballot proposition shall be in substantially the following form:

"Shall the _____ metropolitan municipal corporation be authorized to perform the additional metropolitan functions of _____ (here insert the title of each





of the additional functions to be authorized as set forth in the petition or resolution)?

YES ..... ☐

NO ..... ☐"

If a majority of the persons voting on the proposition shall vote in favor thereof, the metropolitan municipal corporation shall be authorized to perform such additional metropolitan function or functions.

Additional functions—Authorization without election.

SEC. 11. A metropolitan municipal corporation may be authorized to perform one or more metropolitan functions in addition to those which it previously has been authorized to perform, without an election, in the manner provided in this section. A resolution providing for the performance of such additional metropolitan function or functions shall be adopted by the metropolitan council. A copy of such resolution shall be transmitted by registered mail to the legislative body of each component city and county. If, within ninety days after the date of such mailing, a concurring resolution is adopted by the legislative body of each component county, of each component city of the first class, and of at least two-thirds of all other component cities, and such concurring resolutions are transmitted to the metropolitan council, such council shall by resolution declare that the metropolitan municipal corporation has been authorized to perform such additional metropolitan function or functions. A copy of such resolution shall be transmitted by registered mail to the legislative body of each component city and county and of each special district which will be affected by the particular additional metropolitan function authorized.

Metropolitan council.

SEC. 12. A metropolitan municipal corporation shall be governed by a metropolitan council composed of the following:

Metropolitan municipal corporations. Council. Composition —Chairman.

(1) One member selected by, and from, the board of commissioners of each component county;

(2) One additional member selected by the board of commissioners of each component county for each county commissioner district containing twenty thousand or more persons residing in the unincorporated portion of such commissioner district lying within the metropolitan municipal corporation who shall be a resident of such unincorporated portion: *Provided*, That one additional member shall be selected by and from, the board of county commissioners for each county commissioner district containing less than twenty thousand persons in its unincorporated area.

(3) One member who shall be the mayor of the central city.

(4) One member from each of the three largest component cities containing a population of ten thousand or more other than the central city, selected by, and from, the mayor and city council of each of such cities.

(5) One member representing all component cities other than the four largest cities with a population of ten thousand or more, to be selected from the mayors and city councils of such smaller cities by the mayors of such cities in the following manner: The mayors of all such cities shall meet on the second Tuesday following the establishment of a metropolitan municipal corporation and thereafter on the third Tuesday in June of each even-numbered year at two o'clock p. m. at the office of the board of county commissioners of the central county. The chairman of such board shall preside. After nominations are made, successive ballots shall be taken until one candidate receives a majority of all votes cast.

(6) One member selected by, and from, the city council of the central city.





Council. Composition —Chairman.

(7) One member selected by, and from, the city council of each component city containing a population of fifty thousand or more.

(8) One additional member selected by and from the city council of each component city containing a population of one hundred thousand or more.

(9) One additional member selected by, and from, the city council of each component city containing a population of one hundred thousand or more for each one hundred thousand population over and above the first one hundred thousand.

(10) One member, who shall be chairman of the metropolitan council, selected by the other members of the council. He shall not hold any public office other than that of notary public or member of the military forces of the United States or of the state of Washington not on active duty.

Organization, chairman, procedures.

SEC. 13. At the first meeting of the metropolitan council following the formation of a metropolitan municipal corporation, the mayor of the central city shall serve as temporary chairman. As its first official act the council shall elect a chairman. The chairman shall be a voting member of the council and shall preside at all meetings. In the event of his absence or inability to act the council shall select one of its members to act as chairman pro tempore. A majority of all members of the council shall constitute a quorum for the transaction of business. A smaller number of council members than a quorum may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as the council may provide. The council shall determine its own rules and order of business, shall provide by resolution for the manner and time of holding all regular and special meetings and shall keep a journal of its proceedings which shall be a public record. Every legislative act

of the council of a general or permanent nature shall be by resolution.

Metropolitan municipal corporations. Council. Terms.

SEC. 14. Each member of a metropolitan council except those selected under the provisions of section 12 (3), (5) and (10), shall hold office at the pleasure of the body which selected him. Each member, who shall hold office ex officio, may not hold office after he ceases to hold the position of mayor, commissioner, or councilman. The chairman shall hold office until the second Tuesday in July of each even-numbered year and may, if reelected, serve more than one term. Each member shall hold office until his successor has been selected as provided in this act.

Vacancies.

SEC. 15. A vacancy in the office of a member of the metropolitan council shall be filled in the same manner as provided for the original selection. The meeting of mayors to fill a vacancy of the member selected under the provisions of section 12 (5) shall be held at such time and place as shall be designated by the chairman of the metropolitan council after ten days' written notice mailed to the mayors of each of the cities specified in section 12 (5).

Compensation.

SEC. 16. The chairman of the metropolitan council shall receive such compensation as the other members of the metropolitan council shall provide. Members of the council other than the chairman shall receive compensation for attendance at metropolitan council or committee meetings of twenty-five dollars per diem but not exceeding a total of two hundred dollars in any one month, in addition to any compensation which they may receive as officers of component cities or counties: *Provided,* That elected public officers serving in such capacities on a full time basis shall not receive compensation for attendance at metropolitan, council or committee meetings. All members of the council shall be reimbursed for expenses actually incurred by them in the conduct of official business for the metropolitan municipal corporation.





Metropolitan municipal corporations. Name and seal.

SEC. 17. The name of a metropolitan municipal corporation shall be established by its metropolitan council. Each metropolitan municipal corporation shall adopt a corporate seal containing the name of the corporation and the date of its formation.

General power of corporation.

SEC. 18. In addition to the powers specifically granted by this act a metropolitan municipal corporation shall have all powers which are necessary to carry out the purposes of the metropolitan municipal corporation and to perform authorized metropolitan functions. A metropolitan municipal corporation may contract with the United States or any agency thereof, any state or agency thereof, any other metropolitan municipal corporation, any county, city, special district, or governmental agency for the operation by such entity of any facility or the performance of any service which the metropolitan municipal corporation may be authorized to operate or perform, on such terms as may be agreed upon by the contracting parties.

A metropolitan municipal corporation may sue and be sued in its corporate capacity in all courts and in all proceedings.

Performance of functions, commencement date.

SEC. 19. The metropolitan council shall provide by resolution the effective date on which the metropolitan municipal corporation will commence to perform any one or more of the metropolitan functions which it shall have been authorized to perform.

Powers relative to sewage disposal.

SEC. 20. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan sewage disposal, it shall have the following powers in addition to the general powers granted by this act:

(1) To prepare a comprehensive sewage disposal

Metropolitan municipal corporations. Powers relative to sewage disposal.

and storm water drainage plan for the metropolitan area.

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of metropolitan facilities for sewage disposal and storm water drainage within or without the metropolitan area, including trunk, interceptor and outfall sewers, whether used to carry sanitary waste, storm water, or combined storm and sanitary sewage, lift and pumping stations, sewage treatment plants, together with all lands, properties, equipment and accessories necessary for such facilities. Sewer facilities which are owned by a city or special district may be acquired or used by the metropolitan municipal corporation only with the consent of the legislative body of the city or special districts owning such facilities. Cities and special districts are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the legislative body of such city or special district and the metropolitan council, without submitting the matter to the voters of such city or district.

(3) To require counties, cities, special districts and other political subdivisions to discharge sewage collected by such entities from any portion of the metropolitan area into such metropolitan facilities as may be provided to serve such areas when the metropolitan council shall declare by resolution that the health, safety, or welfare of the people within the metropolitan area requires such action.

(4) To fix rates and charges for the use of metropolitan sewage disposal and storm water drainage facilities.

(5) To establish minimum standards for the construction of local sewer facilities and to approve





Powers relative to sewage disposal.

plans for construction of such facilities by component counties or cities or by special districts wholly or partly within the metropolitan area. No such county, city, or special district shall construct such facilities without first securing such approval.

(6) To acquire by purchase, condemnation, gift, or grant, to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local collection of sewage or storm water in portions of the metropolitan area not contained within any city or sewer district and, with the consent of the legislative body of any city or sewer district, to exercise such powers within such city or sewer district and for such purpose to have all the powers conferred by law upon such city or sewer district with respect to such local collection facilities. All costs of such local collection facilities shall be paid for by the area served thereby.

Metropolitan sewer advisory committee.

SEC. 21. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan sewage disposal, the metropolitan council shall, prior to the effective date of the assumption of such function, cause a metropolitan sewer advisory committee to be formed by notifying the legislative body of each component city which operates a sewer system to appoint one person to serve on such advisory committee and the board of commissioners of each sewer district, any portion of which lies within the metropolitan area, to appoint one person to serve on such committee who shall be a sewer district commissioner. The metropolitan sewer advisory committee shall meet at the time and place provided in the notice and elect a chairman. The members of such committee shall serve at the pleasure of the appointing bodies and shall receive no compensation other than reimbursement for expenses actually incurred in the performance of their duties. The function of such advisory committee shall be to

advise the metropolitan council in matters relating to the performance of the sewage disposal function.

Metropolitan municipal corporations. Powers relative to water supply.

SEC. 22. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan water supply, it shall have the following powers in addition to the general powers granted by this act:

(1) To prepare a comprehensive plan for the development of sources of water supply, trunk supply mains and water treatment and storage facilities for the metropolitan area.

(2) To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of metropolitan facilities for water supply within or without the metropolitan area, including buildings, structures, water sheds, wells, springs, dams, settling basins, intakes, treatment plants, trunk supply mains and pumping stations, together with all lands, property, equipment and accessories necessary to enable the metropolitan municipal corporation to obtain and develop sources of water supply. treat and store water and deliver water through trunk supply mains. Water supply facilities which are owned by a city or special district may be acquired or used by the metropolitan municipal corporation only with the consent of the legislative body of the city or special district owning such facilities. Cities and special districts are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the legislative body of such city or special district and the metropolitan council, without submitting the matter to the voters of such city or district.

(3) To fix rates and charges for water supplied by the metropolitan municipal corporation.





Powers relative to water supply.

(4) To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local distribution of water in portions of the metropolitan area not contained within any city or water district and, with the consent of the legislative body of any city or water district, to exercise such powers within such city or water district and for such purpose to have all the powers conferred by law upon such city or water district with respect to such local distribution facilities. All costs of such local distribution facilities shall be paid for by the area served thereby.

Metropolitan water advisory committee.

SEC. 23. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan water supply, the metropolitan council shall, prior to the effective date of the assumption of such function, cause a metropolitan water advisory committee to be formed by notifying the legislative body of each component city which operates a water system to appoint one person to serve on such advisory committee and the board of commissioners of each water district, any portion of which lies within the metropolitan area, to appoint one person to serve on such committee who shall be a water district commissioner. The metropolitan water advisory committee shall meet at the time and place provided in the notice and elect a chairman. The members of such committee shall serve at the pleasure of the appointing bodies and shall receive no compensation other than reimbursement for expenses actually incurred in the performance of their duties. The function of such advisory committee shall be to advise the metropolitan council with respect to matters relating to the performance of the water supply function.

Powers relative to transportation.

SEC. 24. If a metropolitan municipal corporation shall be authorized to perform the function of metro-

Metropolitan municipal corporations. Powers relative to transportation.

politan transportation, it shall have the following powers in addition to the general powers granted by this act:

(1) To prepare and develop a comprehensive plan for public transportation service which will best serve the residents of the metropolitan area.

(2) To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of metropolitan transportation facilities within or without the metropolitan area, including systems of surface, underground or overhead railways, tramways, busses, or any other means of local transportation except taxis, and including passenger terminal and parking facilities, together with all lands, rights of way, property, equipment and accessories necessary for such systems and facilities. Public transportation facilities which are owned by any city may be acquired or used by the metropolitan municipal corporation only with the consent of the city council of the city owning such facilities. Cities are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the city council of such city and the metropolitan council, without submitting the matter to the voters of such city.

(3) To fix rates and charges for the use of such facilities.

Other local public passenger transportation service prohibited—Agreements—Purchase—Condemnation.

SEC. 25. Except in accordance with an agreement made as provided herein, upon the effective date on which the metropolitan municipal corporation commences to perform the metropolitan transportation function, no person or private corporation shall operate a local public passenger transportation service within the metropolitan area with the exception of taxis, busses owned or operated by a school district or private school, and busses owned or operated





by any corporation or organization solely for the purposes of the corporation or organization and for the use of which no fee or fare is charged.

Agreements—Purchase—Condemnation.

An agreement may be entered into between the metropolitan municipal corporation and any person or corporation legally operating a local public passenger transportation service wholly within or partly within and partly without the metropolitan area and on said effective date under which such person or corporation may continue to operate such service or any part thereof for such time and upon such terms and conditions as provided in such agreement. Where any such local public passenger transportation service will be required to cease to operate within the metropolitan area, the commission may agree with the owner of such service to purchase the assets used in providing such service, or if no agreement can be reached, the commission shall condemn such assets in the manner provided herein for the condemnation of other properties.

Wherever a privately owned public carrier operates wholly or partly within a metropolitan municipal corporation, the Washington Public Service Commission shall continue to exercise jurisdiction over such operation as provided by law.

Transportation function—Acquisition of city system.

SEC. 26. If a metropolitan municipal corporation shall be authorized to perform the metropolitan transportation function, it shall, upon the effective date of the assumption of such power, have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of passenger transportation which any component city shall have been previously empowered to exercise and such powers shall not thereafter be exercised by such component cities without the consent of the metropolitan municipal corporation: *Provided,* That any city owning and operating a public transportation

system on such effective date may continue to operate such system within such city until such system shall have been acquired by the metropolitan municipal corporation and a metropolitan municipal corporation may not acquire such system without the consent of the city council of such city.

Metropolitan municipal corporations. Metropolitan transit commission.

SEC. 27. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan transportation, a metropolitan transit commission shall be formed prior to the effective date of the assumption of such function. Except as provided in this section, the metropolitan transit commission shall exercise all powers of the metropolitan municipal corporation with respect to metropolitan transportation facilities, including but not limited to the power to construct, acquire, maintain, operate, extend, alter, repair, control and manage a local public transportation system within and without the metropolitan area, to establish new passenger transportation services and to alter, curtail, or abolish any services which the commission may deem desirable, to fix tolls and fares, so that the revenue of the system shall be sufficient to meet all operating transportation costs but not necessarily sufficient to meet the cost of construction or acquisition of new facilities and depreciation of facilities, unless the commission shall elect to do so.

The metropolitan transit commission shall authorize expenditures for transportation purposes within the budget adopted by the metropolitan council. Bonds of the metropolitan municipal corporation for public transportation purposes shall be issued by the metropolitan council as provided in this act.

The metropolitan transit commission shall consist of five members appointed by the metropolitan council. Three members of the first metropolitan transit commission shall be selected from the existing transit commission of the central city, if there be a transit





commission in such city. The terms of first appointees shall be for one, two, three, four and five years, respectively. Thereafter, commissioners shall serve for a term of four years. Compensation of transit commissioners shall be determined by the metropolitan council.

Powers relative to garbage disposal.

SEC. 28. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan garbage disposal, it shall have the following powers in addition to the general powers granted by this act:

(1) To prepare a comprehensive garbage disposal plan for the metropolitan area.

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of metropolitan facilities for garbage disposal within or without the metropolitan area, including garbage disposal sites, central collection station sites, structures, machinery and equipment for the operation of central collection stations and for the hauling and disposal of garbage by any means, together with all lands, property, equipment and accessories necessary for such facilities. Garbage disposal facilities which are owned by a city or county may be acquired or used by the metropolitan municipal corporation only with the consent of the legislative body of the city or county owning such facilities. Cities and counties are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the legislative body of such city or county and the metropolitan council, without submitting the matter to the voters of such city or county.

(3) To fix rates and charges for the use of metropolitan garbage disposal facilities.

(4) With the consent of any component city,

Metropolitan municipal corporations. Power relative to garbage disposal.

to acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local collection of garbage within such city, and for such purpose to have all the powers conferred by law upon such city with respect to such local collection facilities. Nothing herein contained shall be deemed to authorize the local collection of garbage except in component cities. All costs of such local collection facilities shall be paid for by the area served thereby.

Powers relative to parks and parkways.

SEC. 29. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan parks and parkways, it shall have the following powers in addition to the general powers granted by this act:

(1) To prepare a comprehensive plan of metropolitan parks and parkways.

(2) To acquire by purchase, condemnation, gift or grant, to lease, construct, add to, improve, develop, replace, repair, maintain, operate and regulate the use of metropolitan parks and parkways, together with all lands, rights of way, property, equipment and accessories necessary therefor. A park or parkway shall be considered to be a metropolitan facility if the metropolitan council shall by resolution find it to be of use and benefit to all or a major portion of the residents of the metropolitan area. Parks or parkways which are owned by a component city or county may be acquired or used by the metropolitan municipal corporation only with the consent of the legislative body of such city or county. Cities and counties are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the legislative bodies of such city or county and the metropolitan council, without submitting the





matter to the voters of such city or county. If parks or parkways which have been acquired or used as metropolitan facilities shall no longer be used for park purposes by the metropolitan municipal corporation, such facilities shall revert to the component city or county which formerly owned them.

(3) To fix fees and charges for the use of metropolitan park and parkway facilities.

Metropolitan park board.

SEC. 30. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan parks and parkways, a metropolitan park board shall be formed prior to the effective date of the assumption of such function. Except as provided in this section, the metropolitan park board shall exercise all powers of the metropolitan municipal corporation with respect to metropolitan park and parkway facilities.

The metropolitan park board shall authorize expenditures for park and parkway purposes within the budget adopted by the metropolitan council. Bonds of the metropolitan municipal corporation for park and parkway purposes shall be issued by the metropolitan council as provided in this act.

The metropolitan park board shall consist of five members appointed by the metropolitan council at least two of whom shall be residents of the central city. The terms of first appointees shall be for one, two, three, four and five years, respectively. Thereafter members shall serve for a term of four years. Compensation of park board members shall be determined by the metropolitan council.

Powers relative to planning.

SEC. 31. If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan comprehensive planning, it shall have the following powers in addition to the general powers granted by this act:

(1) To prepare a recommended comprehensive

Metropolitan municipal corporations. Powers relative to planning.

land use and capital facilities plan for the metropolitan area.

(2) To review proposed zoning ordinances and resolutions or comprehensive plans of component cities and counties and make recommendations thereon. Such proposed zoning ordinances and resolutions or comprehensive plans must be submitted to the metropolitan council prior to adoption and may not be adopted until reviewed and returned by the metropolitan council. The metropolitan council shall cause such ordinances, resolutions and plans to be reviewed by the planning staff of the metropolitan municipal corporation and return such ordinances, resolutions and plans, together with their findings and recommendations thereon within sixty days following their submission.

(3) To provide planning services for component cities and counties upon request and upon payment therefor by the cities or counties receiving such service.

Eminent domain.

SEC. 32. A metropolitan municipal corporation shall have power to acquire by purchase and condemnation all lands and property rights, both within and without the metropolitan area, which are necessary for its purposes. Such right of eminent domain shall be exercised by the metropolitan council in the same manner and by the same procedure as is or may be provided by law for cities of the first class, except insofar as such laws may be inconsistent with the provisions of this act.

Powers exercised with relation to public rights of way without franchise—Conditions.

SEC. 33. A metropolitan municipal corporation shall have power to construct or maintain metropolitan facilities in, along, on, under, over, or through public streets, bridges, viaducts, and other public rights of way without first obtaining a franchise from the county or city having jurisdiction over the same:

Proviso.

*Provided,* That such facilities shall be constructed and maintained in accordance with the ordinances





and resolutions of such city or county relating to construction, installation and maintenance of similar facilities in such public properties.

Disposition of unneeded property.

SEC. 34. Except as otherwise provided herein, a metropolitan municipal corporation may sell, or otherwise dispose of any real or personal property acquired in connection with any authorized metropolitan function and which is no longer required for the purposes of the metropolitan municipal corporation in the same manner as provided for cities of the first class. When the metropolitan council determines that a metropolitan facility or any part thereof which has been acquired from a component city or county without compensation is no longer required for metropolitan purposes, but is required as a local facility by the city or county from which it was acquired, the metropolitan council shall by resolution transfer it to such city or county.

Powers of metropolitan council.

SEC. 35. All the powers and functions of a metropolitan municipal corporation shall be vested in the metropolitan council unless expressly vested in specific officers, boards, or commissions by this act. Without limitation of the foregoing authority, or of other powers given it by this act, the metropolitan council shall have the following powers:

(1) To establish offices, departments, boards and commissions in addition to those provided by this act which are necessary to carry out the purposes of the metropolitan municipal corporation, and to prescribe the functions, powers and duties thereof.

(2) To appoint or provide for the appointment of, and to remove or to provide for the removal of, all officers and employees of the metropolitan municipal corporation except those whose appointment or removal is otherwise provided for by this act.

(3) To fix the salaries, wages and other compensation of all officers and employees of the metro-

politan municipal corporation unless the same shall be otherwise fixed in this act.

(4) To employ such engineering, legal, financial, or other specialized personnel as may be necessary to accomplish the purposes of the metropolitan municipal corporation.

Metropolitan municipal corporations. Rules and regulations—Penalties—Enforcement.

SEC. 36. A metropolitan municipal corporation shall have power to adopt by resolution such rules and regulations as shall be necessary or proper to enable it to carry out authorized metropolitan functions and may provide penalties for the violation thereof. Actions to impose or enforce such penalties may be brought in the superior court of the state of Washington in and for the central county.

Merit system.

SEC. 37. The metropolitan council shall establish and provide for the operation and maintenance of a personnel merit system for the employment, classification, promotion, demotion, suspension, transfer, layoff and discharge of its appointive officers and employees solely on the basis of merit and fitness without regard to political influence or affiliation. The person appointed or body created for the purpose of administering such personnel system shall have power to make, amend and repeal rules and regulations as are deemed necessary for such merit system. Such rules and regulations shall provide:

(1) That the person to be discharged or demoted must be presented with the reasons for such discharge or demotion specifically stated; and

(2) That he shall be allowed a reasonable time in which to reply thereto in writing and that he be given a hearing thereon within a reasonable time.

Retention of existing personnel.

SEC. 38. A metropolitan municipal corporation shall offer to employ every person who on the date such corporation acquires a metropolitan facility is employed in the operation of such facility by a component city or county or by a special district.





Prior employees pension rights preserved.

SEC. 39. Where a metropolitan municipal corporation employs a person employed immediately prior thereto by a component city or county, or by a special district, such employee shall be deemed to remain an employee of such city, county, or special district for the purposes of any pension plan of such city, county, or special district, and shall continue to be entitled to all rights and benefits thereunder as if he had remained as an employee of the city, county, or special district, until the metropolitan municipal corporation has provided a pension plan and such employee has elected, in writing, to participate therein.

Until such election, the metropolitan municipal corporation shall deduct from the remuneration of such employee the amount which such employee is or may be required to pay in accordance with the provisions of the plan of such city, county, or special district and the metropolitan municipal corporation shall pay to the city, county, or special district any amounts required to be paid under the provisions of such plan by employer or employee.

Prior employees sick leave and vacation rights preserved.

SEC. 40. Where a metropolitan municipal corporation employs a person employed immediately prior thereto by a component city or county or by a special district, the employee shall be deemed to remain an employee of such city, county, or special district for the purposes of any sick leave credit plan of the component city, county, or special district until the metropolitan municipal corporation has established a sick leave credit plan for its employees, whereupon the metropolitan municipal corporation shall place to the credit of the employee the sick leave credits standing to his credit in the plan of such city, county, or special district.

Where a metropolitan municipal corporation employs a person theretofore employed by a component city, county, or by a special district, the metropolitan

municipal corporation shall, during the first year of his employment by the metropolitan municipal corporation, provide for such employee a vacation with pay equivalent to that which he would have been entitled if he had remained in the employment of the city, county, or special district.

Metropolitan municipal corporations. Budget—Expenditures—"Supplemental income" designated.

SEC. 41. On or before the third Monday in June of each year, each metropolitan municipal corporation shall adopt a budget for the following calendar year. Such budget shall include a separate section for each authorized metropolitan function. Expenditures shall be segregated as to operation and maintenance expenses and capital and betterment outlays. Administrative and other expense general to the corporation shall be allocated between the authorized metropolitan functions. The budget shall contain an estimate of all revenues to be collected during the following budget year, including any surplus funds remaining unexpended from the preceding year. The remaining funds required to meet budget expenditures, if any, shall be designated as "supplemental income" and shall be obtained from the component cities and counties in the manner provided in this act. The metropolitan council shall not be required to confine capital or betterment expenditures made from bond proceeds or emergency expenditures to items provided in the budget. The affirmative vote of three-fourths of all members of the metropolitan council shall be required to authorize emergency expenditures.

Supplemental income payments by component city and county.

SEC. 42. Each component city shall pay such proportion of the supplemental income of the metropolitan municipal corporation as the assessed valuation of property within its limits bears to the total assessed valuation of taxable property within the metropolitan area. Each component county shall pay such proportion of such supplemental income as the assessed valuation of the property within the unin-





corporated area of such county lying within the metropolitan area bears to the total assessed valuation of taxable property within the metropolitan area. In making such determination, the metropolitan council shall use the last available assessed valuations. The metropolitan council shall certify to each component city and county, prior to the fourth Monday in June of each year, the share of the supplemental income to be paid by such component city or county for the next calendar year. The latter shall then include such amount in its budget for the ensuing calendar year, and during such year shall pay to the metropolitan municipal corporation, in equal quarterly installments, the amount of its supplemental income share from whatever sources may be available to it.

Funds—Disbursements—Treasurer—Expenses. Election expenses.

SEC. 43. The treasurer of each component county shall create a separate fund into which shall be paid all money collected from taxes levied by the metropolitan municipal corporation on property in such county and such money shall be forwarded quarterly by the treasurer of each such county to the treasurer of the central county as directed by the metropolitan council. The treasurer of the central county shall act as the treasurer of the metropolitan municipal corporation and shall establish and maintain such funds as may be authorized by the metropolitan council. Money shall be disbursed from such funds upon warrants drawn by the auditor of the central county as authorized by the metropolitan council. The central county shall be reimbursed by the metropolitan municipal corporation for services rendered by the treasurer and auditor of the central county in connection with the receipt and disbursement of such funds. The expense of all special elections held pursuant to this act shall be paid by the metropolitan municipal corporation.

Metropolitan municipal corporations. County assessor's duties.

SEC. 44. It shall be the duty of the assessor of each component county to certify annually to the metropolitan council the aggregate assessed valuation of all taxable property in his county situated in any metropolitan municipal corporation as the same appears from the last assessment roll of his county.

General obligation bonds—Issuance, sale, form, term, election, payment.

SEC. 45. A metropolitan municipal corporation shall have power to issue general obligation bonds and to pledge the full faith and credit of the corporation to the payment thereof, for any authorized capital purpose of the metropolitan municipal corporation: *Provided,* That a proposition authorizing the issuance of such bonds shall have been submitted to the electors of the metropolitan municipal corporation at a special election and assented to by three-fifths of the persons voting on said proposition at said election at which such election the total number of persons voting on such bond proposition shall constitute not less than forty percent of the total number of votes cast within the area of said metropolitan municipal corporation at the last preceding state general election. Both principal of and interest on such general obligation bonds shall be payable from annual tax levies to be made upon all the taxable property within the metropolitan municipal corporation in excess of the forty mill tax limit.

General obligation bonds shall bear interest at a rate of not to exceed six percent per annum. The various annual maturities shall commence not more than five years from the date of issue of the bonds and shall as nearly as practicable be in such amounts as will, together with the interest on all outstanding bonds of such issue, be met by equal annual tax levies.

Such bonds shall be signed by the chairman and attested by the secretary of the metropolitan council, one of which signatures may be a facsimile signature and the seal of the metropolitan corporation





shall be impressed thereon. Each of the interest coupons shall be signed by the facsimile signatures of said officials. General obligation bonds shall be sold at public sale as provided by law for sale of general obligation bonds of cities of the first class and at a price not less than par and accrued interest.

Revenue bonds—Issuance, sale, form, term, payment, reserves, actions.

SEC. 46. A metropolitan municipal corporation may issue revenue bonds to provide funds to carry out its authorized metropolitan sewage disposal, water supply, garbage disposal or transportation purposes, without submitting the matter to the voters of the metropolitan municipal corporation. The metropolitan council shall create a special fund or funds for the sole purpose of paying the principal of and interest on the bonds of each such issue, into which fund or funds the metropolitan council may obligate the metropolitan municipal corporation to pay such amounts of the gross revenue of the particular utility constructed, acquired, improved, added to, or repaired out of the proceeds of sale of such bonds, as the metropolitan council shall determine. The principal of, and interest on, such bonds shall be payable only out of such special fund or funds, and the owners and holders of such bonds shall have a lien and charge against the gross revenue of such utility.

Such revenue bonds and the interest thereon issued against such fund or funds shall be a valid claim of the holders thereof only as against such fund or funds and the revenue pledged therefor, and shall not constitute a general indebtedness of the metropolitan municipal corporation.

Each such revenue bond shall state upon its face that it is payable from such special fund or funds, and all revenue bonds issued under this act shall be negotiable instruments within the provisions of the negotiable instruments law of this state. Such revenue bonds may be registered either as to principal

Metropolitan municipal corporations. Revenue bonds—Issuance, sale, form, term, payment, reserves, actions.

only or as to principal and interest, or may be bearer bonds, shall be in such denominations as the metropolitan council shall deem proper; shall be payable at such time or times and at such places as shall be determined by the metropolitan council; shall bear interest at such rate or rates as shall be determined by the metropolitan council, shall be signed by the chairman and attested by the secretary of the metropolitan council, one of which signatures may be a facsimile signature, and the seal of the metropolitan municipal corporation shall be impressed thereon; each of the interest coupons shall be signed by the facsimile signatures of said officials.

Such revenue bonds shall be sold in such manner as the metropolitan council shall deem to be for the best interests of the metropolitan municipal corporation, either at public or private sale. The aggregate interest cost to maturity of the money received for such revenue bonds shall not exceed seven percent per annum.

The metropolitan council may at the time of the issuance of such revenue bonds make such covenants with the purchasers and holders of said bonds as it may deem necessary to secure and guarantee the payment of the principal thereof and the interest thereon, including but not being limited to covenants to set aside adequate reserves to secure or guarantee the payment of such principal and interest, to maintain rates sufficient to pay such principal and interest and to maintain adequate coverage over debt service, to appoint a trustee or trustees for the bondholders to safeguard the expenditure of the proceeds of sale of such bonds and to fix the powers and duties of such trustee or trustees and to make such other covenants as the metropolitan council may deem necessary to accomplish the most advantageous sale of such bonds. The metropolitan council may also provide that revenue bonds payable out





Revenue bonds—Payment, reserves, actions.

of the same source may later be issued on a parity with revenue bonds being issued and sold.

The metropolitan council may include in the principal amount of any such revenue bond issue an amount for working capital and an amount necessary for interest during the period of construction of any such metropolitan facilities plus six months. The metropolitan council may, if it deems it to the best interest of the metropolitan municipal corporation, provide in any contract for the construction or acquisition of any metropolitan facilities or additions or improvements thereto or replacements or extensions thereof that payment therefor shall be made only in such revenue bonds at the par value thereof.

If the metropolitan municipal corporation shall fail to carry out or perform any of its obligations or covenants made in the authorization, issuance and sale of such bonds, the holder of any such bond may bring action against the metropolitan municipal corporation and compel the performance of any or all of such covenants.

Funding, refunding bonds.

SEC. 47. The metropolitan council may, by resolution, without submitting the matter to the voters of the metropolitan municipal corporation, provide for the issuance of funding or refunding general obligation bonds to refund any outstanding general obligation bonds or any part thereof at maturity, or before maturity if they are by their terms or by other agreement subject to prior redemption, with the right in the metropolitan council to combine various series and issues of the outstanding bonds by a single issue of funding or refunding bonds, and to issue refunding bonds to pay any redemption premium payable on the outstanding bonds being refunded. The funding or refunding general obligation bonds shall, except as specifically provided in this section, be issued in accordance with the provisions of this act with respect to general obligation bonds.

Metropolitan municipal corporations. Funding, refunding bonds.

The metropolitan council may, by resolution, without submitting the matter to the voters of the metropolitan municipal corporation, provide for the issuance of funding or refunding revenue bonds to refund any outstanding revenue bonds or any part thereof at maturity, or before maturity if they are by their terms or by agreement subject to prior redemption, with the right in the metropolitan council to combine various series and issues of the outstanding bonds by a single issue of refunding bonds, and to issue refunding bonds to pay any redemption premium payable on the outstanding bonds being refunded. The funding or refunding revenue bonds shall be payable only out of a special fund created out of the gross revenue of the particular utility, and shall be a valid claim only as against such special fund and the amount of the revenue of the utility pledged to the fund. The funding or refunding revenue bonds shall, except as specifically provided in this section, be issued in accordance with the provisions of this act with respect to revenue bonds.

The net interest cost to maturity on funding or refunding bonds issued under this act shall not exceed seven percent per annum. The amount of premium, if any, to be paid on the redemption of such funding or refunding bonds prior to the maturity thereof shall not be considered in determining such net interest cost. The metropolitan council may exchange the funding or refunding bonds at par for the bonds which are being funded or refunded, or it may sell them in such manner as it deems for the best interest of the metropolitan municipal corporation.

Borrowing money from component city or county.

SEC. 48. A metropolitan municipal corporation shall have the power when authorized by a majority of all members of the metropolitan council to borrow money from any component city or county and such cities or counties are hereby authorized to make





such loans or advances on such terms as may be mutually agreed upon by the legislative bodies of the metropolitan municipal corporation and any such component city or county to provide funds to carry out the purposes of the metropolitan municipal corporation.

Interest bearing warrants.

SEC. 49. If a metropolitan municipal corporation shall have been authorized to levy a general tax on all taxable property located within the metropolitan municipal corporation in the manner provided in this act, either at the time of the formation of the metropolitan municipal corporation or subsequently, the metropolitan council shall have the power to authorize the issuance of interest bearing warrants on such terms and conditions as the metropolitan council shall provide, same to be repaid from the proceeds of such tax when collected.

Local improvement districts—Utility local improvement districts.

SEC. 50. The metropolitan municipal corporation shall have the power to levy special assessments payable over a period of not exceeding twenty years on all property within the metropolitan area specially benefited by any improvement, on the basis of special benefits conferred, to pay in whole, or in part, the damages or costs of any such improvement, and for such purpose may establish local improvement districts and enlarged local improvement districts, issue local improvement warrants and bonds to be repaid by the collection of local improvement assessments and generally to exercise with respect to any improvements which it may be authorized to construct or acquire the same powers as may now or hereafter be conferred by law upon cities of the first class. Such local improvement districts shall be created and such special assessments levied and collected and local improvement warrants and bonds issued and sold in the same manner as shall now or hereafter be provided by law for cities of the first class. The duties imposed upon the city trea-

Metropolitan municipal corporations. Local improvement districts—Utility local improvement districts.

surer under such acts shall be imposed upon the treasurer of the county in which such local improvement district shall be located.

A metropolitan municipal corporation may provide that special benefit assessments levied in any local improvement district may be paid into such revenue bond redemption fund or funds as may be designated by the metropolitan council to secure the payment of revenue bonds issued to provide funds to pay the cost of improvements for which such assessments were levied. If local improvement district assessments shall be levied for payment into a revenue bond fund, the local improvement district created therefor shall be designated a utility local improvement district.

Obligations of corporation are legal investments and security for public deposits.

SEC. 51. All banks, trust companies, bankers, savings banks, and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, curators, trustees and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by a metropolitan municipal corporation pursuant to this act. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.





Legal investments for corporate funds.

SEC. 52. A metropolitan municipal corporation shall have the power to invest its funds held in reserves or sinking funds or any such funds which are not required for immediate disbursement, in property or securities in which mutual savings banks may legally invest funds subject to their control.

Annexation—Requirements, procedure.

SEC. 53. Territory annexed to a component city after the establishment of a metropolitan municipal corporation shall by such act be annexed to such corporation. Any other territory adjacent to a metropolitan municipal corporation may be annexed thereto by vote of the qualified electors residing in the territory to be annexed, in the manner provided in this act. An election to annex such territory may be called pursuant to a petition or resolution in the following manner:

(1) A petition calling for such an election shall be signed by at least four percent of the qualified voters residing within the territory to be annexed and shall be filed with the auditor of the central county.

(2) A resolution calling for such an election may be adopted by the metropolitan council.

Any resolution or petition calling for such an election shall describe the boundaries of the territory to be annexed, and state that the annexation of such territory to the metropolitan municipal corporation will be conducive to the welfare and benefit of the persons or property within the metropolitan municipal corporation and within the territory proposed to be annexed.

Upon receipt of such a petition, the auditor shall examine the same and certify to the sufficiency of the signatures thereon. For the purpose of examining the signatures on such petition, the auditor shall be permitted access to the voter registration books of each city within the territory proposed to be annexed and of each county a portion of which shall be

located within the territory proposed to be annexed. No person may withdraw his name from a petition after it has been filed with the auditor. Within thirty days following the receipt of such petition, the auditor shall transmit the same to the metropolitan council, together with his certificate as to the sufficiency thereof.

Metropolitan municipal corporations. Annexation. Hearings—Inclusion, exclusion of territory—Boundaries—Calling election.

SEC. 54. Upon receipt of a duly certified petition calling for an election on the annexation of territory to a metropolitan municipal corporation, or if the metropolitan council shall determine without a petition being filed, that an election on the annexation of any adjacent territory shall be held, the metropolitan council shall fix a date for a public hearing thereon which shall be not more than sixty nor less than forty days following the receipt of such petition or adoption of such resolution. Notice of such hearing shall be published once a week for at least four consecutive weeks in one or more newspapers of general circulation within the territory proposed to be annexed. The notice shall contain a description of the boundaries of the territory proposed to be annexed and shall state the time and place of the hearing thereon and the fact that any changes in the boundaries of such territory will be considered at such time and place. At such hearing or any continuation thereof, any interested person may appear and be heard on all matters relating to the proposed annexation. The metropolitan council may make such changes in the boundaries of the territory proposed to be annexed as it shall deem reasonable and proper, but may not delete any portion of the proposed area which will create an island of included or excluded lands and may not delete a portion of any city. If the metropolitan council shall determine that any additional territory should be included in the territory to be annexed, a second hearing shall be held and notice given in the same manner as for the





original hearing. The metropolitan council may adjourn the hearing on the proposed annexation from time to time not exceeding thirty days in all. At the next regular meeting following the conclusion of such hearing, the metropolitan council shall, if it finds that the annexation of such territory will be conducive to the welfare and benefit of the persons and property therein and the welfare and benefit of the persons and property within the metropolitan municipal corporation, adopt a resolution fixing the boundaries of the territory to be annexed and calling a special election on such annexation to be held not more than one hundred twenty days nor less than sixty days following the adoption of such resolution.

Annexation. Boundaries—Calling election.

Annexation. Election—Favorable vote.

SEC. 55. An election on the annexation of territory to a metropolitan municipal corporation shall be conducted and canvassed in the same manner as provided for the conduct of an election on the formation of a metropolitan municipal corporation except that notice of such election shall be published in one or more newspapers of general circulation in the territory proposed to be annexed and the ballot proposition shall be in substantially the following form:

ANNEXATION TO (here insert name of metropolitan municipal corporation).

"Shall the territory described in a resolution of the metropolitan council of (here insert name of metropolitan municipal corporation) adopted on the .....day of....., 19....., be annexed to such incorporation?

YES ..... ☐

NO ..... ☐"

If a majority of those voting on such proposition vote in favor thereof, the territory shall thereupon be annexed to the metropolitan municipal corporation.

Metropolitan municipal corporations. Liberal construction.

SEC. 56. The rule of strict construction shall have no application to this act, but the same shall be liberally constructed in all respects in order to carry out the purposes and objects for which this act is intended.

Severability.

SEC. 57. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Vetoed.

SEC. 58. The provisions of this act shall apply only to class AA counties and areas immediately adjacent thereto. Notwithstanding any other provision of this act, before a metropolitan district shall have the power to perform any of the functions in section 5, subsections (2) through (6), such adjacent areas shall first approve the exercise of such power or powers by a majority vote of the electorate residing therein. If the electorate of such area fail to approve the exercise of such power or powers then the members of the metropolitan council representing such area shall not function in the exercise of such powers by the council.

Passed the Senate March 12, 1957.

Passed the House March 12, 1957.

Approved by the Governor March 22, 1957, with the exception of the last unnumbered item of subsection 2 of section 7, and section 58, which are vetoed.

Veto message, excerpt from.

Note: Excerpt of Governor's veto message reads as follows:

"Senate Bill 136 provides for a comprehensive metropolitan municipal corporation designed to allow cities and counties to act jointly in providing essential public services such as sewage disposal, water, garbage, park and transportation. One of its principal purposes is to coordinate the sewage disposal functions of the various municipalities and sewer districts serving the Lake Washington drainage area. This area is located in more than one county, the major portion of which, however, is in the county of King. The last unnumbered item in section 7, subsection (2) reading as follows: *"Provided,* That such resolution or resolutions shall be approved by appropriate affirmative resolution of the board of county commissioners of each county, the area of which is affected by said resolution or resolutions" was inserted as an amendment to the bill and apparently was designed to permit the county commissioners of a component county to determine whether or not their county should become part of the metropolitan municipal corporation. However, the proviso is so broad that it, in effect, would permit the county commissioners of a





Veto message, excerpt from.

component county to veto all operations of the metropolitan municipal corporation in the central county and central city. This would have the effect of permitting the county commissioners representing a small portion of the entire metropolitan municipal corporation to control the activities of the entire corporation.

"For the foregoing reason this item is vetoed.

"Section 58 of Senate Bill 136 is likewise an amendment to the bill. It confines the provisions of the act to class AA counties and areas immediately adjacent thereto. It provides that before a metropolitan district shall have the power to perform any of the functions in section 5, subsection (2) through (6), that the electorate in such adjacent areas shall first approve the exercise of such power or powers.

"It was apparently the intent of this section to give the electorate in the adjacent areas the right to determine whether or not such areas should be included in the metropolitan municipal corporation when such powers were to be exercised. However, the wording of section 58 is so broad that it would thwart operation of the metropolitan municipal corporation in its desire to exercise the functions set forth in subsections (2) through (6) of section 5 in the central city and central county.

"For this reason section 58 is vetoed. The remainder of the bill is approved."

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# CHAPTER 214.

[S. B. 173.]

## MATERIALMEN'S LIENS.

AN ACT relating to materialmen's liens; prescribing time and manner of giving notice of lien to property owners; and amending section 1, chapter 77, Laws of 1911 and RCW 60.04.020.

*Be it enacted by the Legislature of the State of Washington:*

RCW 60.04.020 amended.

Section 1. Section 1, chapter 77, Laws of 1911 and RCW 60.04.020 are each hereby amended to read as follows:

Notice of lien.

Every person, firm or corporation furnishing materials or supplies to be used in the construction, alteration or repair of any mining claim, building, wharf, bridge, ditch, dyke, flume, tunnel, well, fence, machinery, railroad, street railway, wagonroad, aqueduct to create hydraulic power, or any other building, or any other structure, or mining claim or stone quarry, shall, not later than sixty days after the date of the first delivery of such materials or supplies to any contractor or agent, give to the owner or reputed owner of the property on, upon or about which such materials or supplies were used, a notice in writing, stating in substance and effect that such person,

# APPENDIX B

# 1965

# SESSION LAWS

OF THE

# STATE OF WASHINGTON

REGULAR SESSION, THIRTY-NINTH LEGISLATURE
Convened January 11, 1965. Adjourned March 11, 1965.

## VOLUME NO. 1

**ALL LAWS OF THE 1965 REGULAR SESSION**


Compiled in Chapters by
A. LUDLOW KRAMER
Secretary of State

MARGINAL NOTES AND INDEX
By
RICHARD O. WHITE
Code Reviser

Published by Authority

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, two; Kittitas, two; Klicki-
incoln, four; Mason, one;
three; Pend Oreille, two;
one; Skagit, three; Ska-
six; Spokane, seven; Stev-
; Wahkiakum, one; Walla
two; Whitman, two; Yak-

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Monday in January, 1967,
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Severability.

SEC. 8. If any provision or clause of this act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Passed the Senate April 4, 1965.

Passed the House April 3, 1965.

Approved by the Governor April 8, 1965.

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## CHAPTER 111.

[ Substitute Senate Bill No. 167. ]

### MUNICIPAL TRANSPORTATION—TAX SUBSIDIES.

AN ACT relating to public transportation systems; and authorizing municipal tax subsidies therefor.

*Be it enacted by the Legislature of the State of Washington:*

Municipal transportation systems. Legislative declaration—Public purpose.

SECTION 1. We, the legislature find that an increasing number of municipally owned, or leased, and operated transportation systems in the cities of the state of Washington, as in the nation, are finding it impossible, from the revenues derived from tolls, tariffs and fares, to maintain the financial solvency of such systems, and as a result thereof such municipalities have been forced to subsidize such systems to the detriment of other essential public services.

All persons in a community benefit from a solvent and adequate public transportation system, either directly or indirectly, and the responsibility of financing the operation, maintenance, and capital needs of such systems is a community obligation and responsibility which should be shared by all.

Municipal transportation systems. Legislative declaration—Public purpose.

We further find and declare that the maintenance and operation of an adequate public transportation system is an absolute necessity and is essential to the economic, industrial and cultural growth, development and prosperity of a municipality and of the state and nation, and to protect the health and welfare of the residents of such municipalities and the public in general.

We further find and declare that the appropriation of general funds and levying and collection of taxes by such municipalities as authorized in the succeeding sections of this act is necessary, and any funds so derived and expended are for a public purpose for which public funds may properly be used.

Definitions.

SEC. 2. The following terms, however used or referred to in this chapter, shall have the following meanings, unless a different meaning is required by the context:

(1) "Corporate authority" shall mean the council or other legislative body of a municipality.

(2) "Municipality" shall mean any incorporated city of the first class in the state.

(3) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, school district or political subdivision of the state, fraternal, benevolent, religious or charitable society, club or organization, and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity. The term "person" shall not be construed to include the United States nor the state of Washington.

SEC. 3. The corporate authorities of any municipality are authorized to appropriate general funds for the operation, maintenance, and capital needs of municipally owned or leased and municipally op-

erated public transportation systems subject to the right of referendum as provided by statute or charter.

Excise, business and occupation tax to finance system authorized—Limitation.

SEC. 4. The corporate authorities of a municipality are authorized to adopt ordinances for the levy and collection of excise taxes and/or for the imposition of an additional tax for the act or privilege of engaging in business activities. Such business and occupation tax shall be imposed in such amounts as fixed and determined by the corporate authorities of the municipality and shall be measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be. The terms "business", "engaging in business", "gross proceeds of sales", and "gross income of the business" shall for the purpose of this act have the same meanings as defined and set forth in chapter 82.04 RCW or as said chapter may hereafter be amended.

The excise taxes other than the business and occupation tax above provided for shall be levied and collected from all persons within the municipality who are served and billed for any one or more public utility services owned and operated by such municipality in such amounts as shall be fixed and determined by the corporate authorities of the municipality: *Provided*, That such excise tax shall not exceed one dollar per month for each housing unit. For the purposes of this section, the term "housing unit" shall mean a building or portion thereof designed for or used as the residence or living quarters of one or more persons living together, or of one family.

All taxes herein authorized shall be taxes other than a retail sales tax defined in chapter 82.08 RCW and a use tax defined in chapter 82.12 RCW, and the municipality shall appropriate and use the proceeds derived from all taxes authorized herein only

for the operation, maintenance and capital needs of its municipally owned or leased and municipally operated public transportation system.

Municipal transportation systems. Tax—Billing and collecting —Identification.

SEC. 5. The tax levied under the provisions of section 4 of this act shall be billed and collected at such times and in the manner fixed and determined by the corporate authorities in an ordinance levying the tax: *Provided*, That the tax shall be designated and identified as a tax to be used solely for the operation, maintenance, and capital needs of the municipally owned or leased and municipally operated public transit system.

Tax not income, earnings or revenue of system.

SEC. 6. No funds derived from any tax levied under the provisions of this act shall, for any purpose whatsoever, be classified as or constitute income, earnings, or revenue of the public transportation system for which the tax is levied nor of any other public utility owned or leased and operated by such municipality; nor shall such funds constitute or be classified as any part of the rate structure or rate charged for the public utility.

Leased system— Limitation on price if purchase contemplated.

SEC. 7. In the event the corporate authorities of any municipality during the term of a lease or any renewal thereof of a public transportation system desire to purchase the said system, the purchase price shall be no greater than the fair market value of the said system at the commencement of the lease.

Referendum on ordinances implementing act.

SEC. 8. Nothing contained in this act nor the provisions of any city charter shall prevent a referendum on any ordinance or action adopted or taken by any municipality under the provisions of this act.

Severability.

SEC. 9. If any provision of this act, or its application to any person or circumstance is held invalid,

the remainder of the act, or the application of the provision to other persons or circumstances is not affected. Municipal transportation systems.

Passed the Senate March 29, 1965.

Passed the House March 24, 1965.

Approved by the Governor April 8, 1965.

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## CHAPTER 112.

[ Senate Bill No. 8. ]

### VAGRANCY.

AN ACT relating to vagrancy; defining crimes and prescribing penalties; and amending section 436, chapter 249, Laws of 1909 and RCW 9.87.010.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. Section 436, chapter 249, Laws of 1909 and RCW 9.87.010 are each amended to read as follows: RCW 9.87.010 amended.

Every— Vagrancy. Defined—Penalty.

(1) Person who asks or receives any compensation, gratuity or reward for practicing fortunetelling, palmistry or clairvoyance; or,

(2) Person who keeps a place where lost or stolen property is concealed; or,

(3) Person practicing or soliciting prostitution or keeping a house of prostitution; or,

(4) Common drunkards found in any place where intoxicating liquors are sold or kept for sale, or in an intoxicated condition; or,

(5) Common gambler found in any place where gambling is conducted or where gambling paraphernalia or devices are kept; or,

(6) Healthy person who solicits alms; or,

(7) Lewd, disorderly or dissolute person; or,

# APPENDIX C

# 1969

# SESSION LAWS

OF THE

# STATE OF WASHINGTON

REGULAR SESSION, FORTY-FIRST LEGISLATURE
Convened January 13, 1969. Adjourned March 13, 1969.

FIRST EXTRAORDINARY SESSION,
FORTY-FIRST LEGISLATURE
Convened March 14, 1969. Adjourned May 12, 1969.

## VOLUME NO. 2

**Containing Chapters 223 through 284 (end)**
**First Extraordinary Session**

Published at Olympia by the Statute Law Committee pursuant to Chapter 6, Laws of 1969.

RICHARD O. WHITE
Code Reviser

tory act is July 1, 1969.

Passed the House May 10, 1969
Passed the Senate May 9, 1969
Approved by the Governor May 23, 1969
Filed in office of Secretary of State May 23, 1969

CHAPTER 255
[Engrossed House Bill No. 641]
PUBLIC MASS TRANSPORTATION SYSTEMS

AN ACT Relating to public transportation; amending section 1, chapter 111, Laws of 1965 ex. sess. and RCW 35.95.010; amending section 2, chapter 111, Laws of 1965 ex. sess., as amended by section 65, chapter 145, Laws of 1967 ex. sess., and RCW 35.95.020; amending section 1, chapter 7, Laws of 1963, as last amended by section 4, chapter 149, Laws of 1967 ex. sess., and RCW 82.04-.050; amending section 82.04.190, chapter 15, Laws of 1961, as last amended by section 6, chapter 149, Laws of 1967 ex. sess., and RCW 82.04.190; amending section 82.04.280, chapter 15, Laws of 1961 as last amended by section 13, chapter 149, Laws of 1967 ex. sess. and RCW 82.04.280; amending section 82.44.150, chapter 15, Laws of 1961 and RCW 82.44.150; amending section 35.58.450, chapter 7, Laws of 1965, as amended by section 13, chapter 105, Laws of 1967, and RCW 35.58.450; amending section 35.58.460, chapter 7, Laws of 1965, as amended by section 14, chapter 105, Laws of 1967, and RCW 35.58.460; adding a new section to chapter 39.33 RCW; adding new sections to chapter 7, Laws of 1965 and to chapter 35.58 RCW; creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 1, chapter 111, Laws of 1965 ex. sess. and RCW 35.95.010 are each amended to read as follows:

We, the legislature find that an increasing number of municipally owned, or leased, and operated transportation systems in the ((~~cities~~)) urban areas of the state of Washington, as in the nation, are finding it impossible, from the revenues derived from tolls, tariffs and fares, to maintain the financial solvency of such systems, and as a result thereof such municipalities have been forced to

subsidize such systems to the detriment of other essential public services.

All persons in a community benefit from a solvent and adequate public transportation system, either directly or indirectly, and the responsibility of financing the operation, maintenance, and capital needs of such systems is a community obligation and responsibility which should be shared by all.

We further find and declare that the maintenance and operation of an adequate public transportation system is an absolute necessity and is essential to the economic, industrial and cultural growth, development and prosperity of a municipality and of the state and nation, and to protect the health and welfare of the residents of such municipalities and the public in general.

We further find and declare that the appropriation of general funds and levying and collection of taxes by such municipalities as authorized in the succeeding sections of this chapter is necessary, and any funds so derived and expended are for a public purpose for which public funds may properly be used.

Sec. 2. Section 2, chapter 111, Laws of 1965 ex. sess. as amended by section 65, chapter 145, Laws of 1967 ex. sess. and RCW 35.95.020 are each amended to read as follows:

The following terms, however used or referred to in this chapter, shall have the following meanings, unless a different meaning is required by the context:

(1) "Corporate authority" shall mean the council or other legislative body of a municipality.

(2) "Municipality" shall mean any incorporated city of the first, second or third class in the state, or any metropolitan municipal corporation created pursuant to RCW 35.58.010, et seq.

(3) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, school district or political subdivision of the state, fraternal, benevolent, religious or charitable society, club or organization, and shall in-

clude any trustee, receiver, assignee, or other person acting in a similar representative capacity. The term "person" shall not be construed to include the United States nor the state of Washington.

Sec. 3. Section 1, chapter 7, Laws of 1963, as last amended by section 4, chapter 149, Laws of 1967 ex. sess., and RCW 82.04.050 are each amended to read as follows:

"Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who (a) purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person, or (c) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), or (c) above following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280, subsection (2), and 82.04.290.

The term "sale at retail" or "retail sale" shall include the

sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house, trailer camp or tourist camp for the exclusive use of the tenants thereof, and excluding services rendered in respect to live animals, birds and insects; (b) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture; (c) the sale of or charge made for labor and services rendered in respect to the cleaning, fumigating; razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; (d) the sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16; (e) the sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same; (f) the sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c),

(d), and (e) above when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this paragraph shall be construed to modify the first paragraph of this section and nothing contained in the first paragraph of this section shall be construed to modify this paragraph.

The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal business or professional services, including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities: (a) amusement and recreation businesses including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows and others; (b) abstract, title insurance and escrow businesses; (c) credit bureau businesses; (d) automobile parking and storage garage businesses.

The term shall also include the renting or leasing of tangible personal property to consumers.

The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any publicly owned street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is used or to be used primarily for foot or vehicular traffic including publicly owned mass transportation vehicles of any kind, nor shall it include sales of feed, seed, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects but only when such production and subsequent sale are exempt from tax under RCW 82.04.330, nor shall it include sales of chemical sprays or washes to persons for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay.

Sec. 4. Section 82.04.190, chapter 15, Laws of 1961, as last amended by section 6, chapter 149, Laws of 1967 ex. sess., and RCW 82.04.190 are each amended to read as follows:

"Consumer" means the following:

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of his business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose (a) of resale as tangible personal property in the regular course of business or (b) of incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers or (c) of consuming such property in producing for sale a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale;

(2) Any person engaged in any business activity taxable under RCW 82.04.290;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any publicly owned street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is used or to be used primarily for foot or vehicular traffic including publicly owned mass transportation vehicles of any kind as defined in RCW 82-.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon

the right of way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real or personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business, excluding only the United States, the state, and its political subdivisions in respect to labor and services rendered to their real property which is used or held for public road purposes. Nothing contained in this or any other subsection of this definition shall be construed to modify any other definition of "consumer".

Sec. 5. Section 82.04.280, chapter 15, Laws of 1961 as last amended by section 13, chapter 149, Laws of 1967 ex. sess., and RCW 82.04.280 are each amended to read as follows:

Upon every person engaging within this state in the business of: (1) Printing, and of publishing newspapers, periodicals or magazines; (2) building, repairing or improving any publicly owned street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is used or to be used, primarily for foot or vehicular traffic including publicly owned mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (3) extracting for hire or processing for hire; (4) operating a cold storage warehouse, but not including the rental of cold storage lockers; (5) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent li-

censed under the provisions of RCW 48.05.310; (6) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the Federal Communications Commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of forty-four one hundredths of one percent.

NEW SECTION. Sec. 6. Sections 7 through 14 of this 1969 act are added to chapter 7, Laws of 1965 and to chapter 35.58 RCW.

NEW SECTION. Sec. 7. "Municipality" as used in sections 7 through 14 of this 1969 act means any metropolitan municipal corporation which shall have been authorized to perform the function of metropolitan public transportation and any city which is not located within the boundaries of such a metropolitan municipal corporation and which owns, operates or contracts for the services of a publicly owned or operated system of transportation.

"Motor vehicle" as used in sections 7 through 14 of this 1969 act shall have the same meaning as in RCW 82.44.010.

"County auditor" shall mean the county auditor of any county or any person designated to perform the duties of a county auditor pursuant to RCW 82.44.140.

"Person" shall mean any individual, corporation, firm, association or other form of business association.

NEW SECTION. Sec. 8. On or after July 1, 1971, any municipality is authorized to levy and collect a special excise tax not exceeding one percent on the fair market value of every motor vehicle owned by a resident of such municipality for the privilege of using such motor vehicle provided that in no event shall the tax be less than one dollar and, subject to the provisions of subsection (2) of section 15,

the amount of such tax shall be credited against the amount of the excise tax levied by the state under RCW 82.44.020: PROVIDED, That before utilization of any excise tax moneys collected under authorization of this section for acquisition of right of way or construction of a mass transit facility on a separate right of way the municipality shall adopt rules affording the public an opportunity for "corridor public hearings" and "design public hearings" as herein defined, which rule shall provide in detail the procedures necessary for public participation in the following instances: (a) prior to adoption of location and design plans having a substantial social, economic or environmental effect upon the locality upon which they are to be constructed or (b) on such mass rapid transit systems operating on a separate right of way whenever a substantial change is proposed relating to location or design in the adopted plan. In adopting rules the municipality shall adhere to the provisions of the Administrative Procedure Act.

A "corridor public hearing" is a public hearing that: (a) is held before the municipality is committed to a specific mass transit route proposal, and before a route location is established; (b) is held to afford an opportunity for participation by those interested in the determination of the need for, and the location of, the mass rapid transit system; (c) provides a public forum that affords a full opportunity for presenting views on the mass rapid transit system route location, and the social, economic and environmental effects on that location and alternate locations: PROVIDED, That such hearing shall not be deemed to be necessary before adoption of an overall mass rapid transit system plan by a vote of the electorate of the municipality.

A "design public hearing" is a public hearing that: (a) is held after the location is established but before the design is adopted; and (b) is held to afford an opportunity for participation by those interested in the determination of major design features of the mass rapid transit system; and (c) provides a public forum to afford a full opportunity for presenting views on the mass rapidtransit system design, and the social, economic, environmental effects of that design

and alternate designs.

NEW SECTION. Sec. 9. Any vehicle for which an excise tax is payable under RCW 82.44.030 and RCW 82.44.070 shall be exempt from the tax imposed by section 8 of this act.

NEW SECTION. Sec. 10. The schedule and basis for the excise tax imposed under section 8 of this act shall be as provided in RCW 82.44.040 and RCW 82.44.050. Penalties, receipts, abatements, refunds and all other similar matters relating to the tax shall be as provided in chapter 82.44 RCW.

NEW SECTION. Sec. 11. The excise tax authorized by section 8 of this act shall be due and payable as set forth in RCW 82.44.060 and shall be collected by the county auditor of the county or counties in which such municipality is located and remitted to the state at no cost to the municipality imposing the tax.

NEW SECTION. Sec. 12. When remitting license fee receipts to the state pursuant to RCW 82.44.110, the county auditor shall at the same time remit the special excise taxes collected for the municipality and, subject to the provisions of subsection (2) of section 15, the sums so collected and paid over on behalf of the municipality shall be credited against the amount of the tax the auditor would otherwise be required to collect and pay over to the director of motor vehicles for ultimate distribution to the general fund under chapter 82.44 RCW.

NEW SECTION. Sec. 13. Distribution of the special excise taxes paid into the motor vehicle excise tax fund on behalf of any municipality shall be made to such municipality as provided in RCW 82.44.150, as now or hereafter amended.

NEW SECTION. Sec. 14. All taxes levied and collected under section 8 of this act shall be credited to a special fund in the treasury of the municipality imposing such tax. Such taxes shall be levied and used solely for the purpose of paying all or any part of the cost of acquiring, constructing, equipping or operating a publicly owned mass transportation system, or contracting for the services

thereof, or to pay or secure the payment of all or part of the principal of or interest on any general obligation bonds or revenue bonds issued for public transportation capital purposes and until withdrawn for use, the moneys accumulated in such fund or funds may be invested by the treasurer of such municipality in the manner authorized by the legislative body of the municipality.

If any of the revenue from any such special excise tax shall have been pledged by any municipality to secure the payment of any bonds as herein authorized, then as long as that pledge shall be in effect the legislature shall not withdraw from the municipality the authority to levy and collect the tax. Upon the effective date of this 1969 act any municipality is authorized to pledge that the tax authorized by section 8 of this act shall be levied, collected and applied as provided in this 1969 act to pay or secure the payment of any bonds issued by such municipality after such effective date for authorized public transportation purposes.

Sec. 15. Section 82.44.150, chapter 15, Laws of 1961 and RCW 82.44.150 are each amended to read as follows:

(1) The director of motor vehicles shall on the twenty-fifth day of February, May, August and November of each year, commencing with November, 1971, advise the state treasurer of the total amount of motor vehicle excise taxes remitted to the department of motor vehicles during the preceding calendar quarter ending on the last day of March, June, September and December, respectively, except for those payable under RCW 82.44.030 and RCW 82.44.070, from motor vehicle owners residing within each municipality which has levied a tax under section 8 of this act.

(2) On the first day of the months of January, April, July, and October of each year, the state treasurer shall make the following apportionment and distribution of all moneys remaining in the motor vehicle excise fund: ((~~Five-percent-thereof-shall-be-credited-and transferred-to-the-state-general-fund;~~)) A sum equal to seventeen percent thereof shall be paid to cities and towns in the proportions

and for the purposes hereinafter set forth; ((~~and seventy-eight per cent thereof shall be credited and transferred to the state school equalization fund~~)) a sum equal to eighty-one and thirty-four one hundredths percent of all motor vehicle excise tax receipts including those levied and collected on behalf of a municipality imposing a tax authorized by section 8 of this act, shall be allocable to the state school equalization fund and credited and transferred each year in the following order of priority:

(a) The amount, not less than $2,250,000 required and certified by the state finance committee each year as being necessary for payment of principal of and interest on bonds issued pursuant to chapter 234, Laws of 1957 in the ensuing twelve months and any additional amount required by the covenants of such bonds shall be transferred to the 1957 public school building bond redemption fund.

(b) The amount required and certified by the state finance committee each year as being necessary for payment of principal of and interest on bonds authorized by chapter 26, Laws of 1963 extraordinary session in the ensuing twelve months and any additional amounts required by the covenants of such bonds shall be transferred to the 1963 public school building bond retirement fund.

(c) The amount required to remit to a municipality the proceeds of the tax authorized under section 8 of this act shall be remitted to the municipality levying such tax.

(d) Any remaining amounts from the motor vehicle excise taxes not required for debt service on the above bond issues or to be remitted to a municipality as required under subsection (c) of this subsection shall be transferred and credited to the general fund.

(3) Any amounts remaining in the motor vehicle excise fund after making the distributions provided for in subsection (2) of this section shall be transferred to the general fund.

(4) The amount payable to cities and towns shall be apportioned among the several cities and towns within the state ratably, on the

basis of the population as last determined by the board.

(5) When so apportioned, the amount payable to each such city and town shall be transmitted to the city treasurer thereof, and shall be utilized by such city or town for the purposes of police and fire protection and the preservation of the public health therein, and not otherwise. In case it be adjudged that revenue derived from the excise tax imposed by this chapter cannot lawfully be apportioned or distributed to cities or towns, all moneys directed by this section to be apportioned and distributed to cities and towns shall be credited and transferred to the state general fund.

(6) The amount required under subsection (2)(c) of this section to be remitted by the state treasurer to the treasurer of any municipality levying such tax shall not exceed in any one calendar year the amount of locally generated tax revenues other than the excise tax imposed under section 8 of this 1969 act, which shall have been budgeted by such municipality to be collected in such year for any public transportation purposes including but not limited to operating costs, capital costs and debt service on general obligation or revenue bonds issued for such purposes.

NEW SECTION. Sec. 16. There is added to chapter 39.33 RCW, a new section to read as follows:

The legislative body of any municipal corporation, quasi municipal corporation or political subdivision of the state of Washington authorized to develop and operate a public mass transportation system shall have power to contract with the legislative body of any other municipal corporation, quasi municipal corporation or political subdivision of the state of Washington, or with any person, firm or corporation, for public transportation services or for the use of all or any part of any publicly owned transportation facilities for such period and under such terms and conditions and upon such rentals, fees and charges as the legislative body operating such public transportation system may determine, and may pledge all or any portion of

such rentals, fees and charges and all other revenue derived from the ownership or operation of publicly owned transportation facilities to pay and to secure the payment of general obligation bonds and/or revenue bonds of such municipality issued for the purpose of acquiring or constructing a public mass transportation system.

Sec. 17. Section 35.58.450, chapter 7, Laws of 1965, as amended by section 13, chapter 105, Laws of 1967 and RCW 35.58.450 are each amended to read as follows:

Notwithstanding the limitations of chapter 39.36 RCW and any other statutory limitations otherwise applicable and limiting municipal debt, a metropolitan municipal corporation shall have the power to authorize and to issue general obligation bonds and to pledge the full faith and credit of the corporation to the payment thereof, for any authorized capital purpose of the metropolitan municipal corporation: PROVIDED, That a proposition authorizing the issuance of any such bonds to be issued in excess of one and one-half percent of the actual value of the taxable property therein as ascertained by the last assessment for state and county purposes previous to the incurring of such indebtedness shall have been submitted to the electors of the metropolitan municipal corporation at a special election and assented to by three-fifths of the persons voting on said proposition at said election at which such election the total number of persons voting on such bond proposition shall constitute not less than forty percent of the total number of votes cast within the area of said metropolitan municipal corporation at the last preceding state general election. Such general obligation bonds may be authorized in any total amount in one or more propositions and the amount of such authorization may exceed the amount of bonds which could then lawfully be issued. Such bonds may be issued in one or more series from time to time out of such authorization but at no time shall the total general indebtedness of the metropolitan municipal corporation exceed five percent of the actual value of the taxable property therein to

be ascertained by the last assessment for state and county purposes previous to the incurring of such indebtedness. Both principal of and interest on such general obligation bonds shall be payable from annual tax levies to be made upon all the taxable property within the metropolitan municipal corporation in excess of the forty mill tax limit and may also be made payable from any other taxes or any special assessments which the metropolitan municipal corporation may be authorized to levy and from any otherwise unpledged revenue which may be derived from the ownership or operation of properties or facilities incident to the performance of the authorized function for which such bonds are issued. The metropolitan council may include in the principal amount of such bond issue an amount for engineering, architectural, planning, financial, legal, urban design and other services incident to acquisition or construction solely for authorized capital purposes and may include an amount to establish a guaranty fund for revenue bonds issued solely for capital purposes.

General obligation bonds shall bear interest at a rate of not to exceed ((~~six~~)) eight percent per annum and shall mature in not to exceed forty years from the date of issue. The various annual maturities shall commence not more than five years from the date of issue of the bonds and shall as nearly as practicable be in such amounts as will, together with the interest on all outstanding bonds of such issue, be met by equal annual tax levies.

Such bonds shall be signed by the chairman and attested by the secretary of the metropolitan council, one of which signatures may be a facsimile signature and the seal of the metropolitan corporation shall be impressed or imprinted thereon. Each of the interest coupons shall be signed by the facsimile signatures of said officials. General obligation bonds shall be sold at public sale as provided by law for sale of general obligation bonds of cities of the first class and at a price not less than par and accrued interest.

Sec. 18. Section 35.58.460, chapter 7, Laws of 1965, as amend-

ed by section 14, chapter 105, Laws of 1967 and RCW 35.58.460 are each amended to read as follows:

A metropolitan municipal corporation may issue revenue bonds to provide funds to carry out its authorized metropolitan sewage disposal, water supply, garbage disposal or transportation purposes, without submitting the matter to the voters of the metropolitan municipal corporation. The metropolitan council shall create a special fund or funds for the sole purpose of paying the principal of and interest on the bonds of each such issue, into which fund or funds the metropolitan council may obligate the metropolitan municipal corporation to pay such amounts of the gross revenue of the particular utility constructed, acquired, improved, added to, or repaired out of the proceeds of sale of such bonds, as the metropolitan council shall determine and may obligate the metropolitan municipal corporation to pay such amounts out of otherwise unpledged revenue which may be derived from the ownership, use or operation of properties or facilities owned, used or operated incident to the performance of the authorized function for which such bonds are issued or out of otherwise unpledged fees, tolls, charges, tariffs, fares, rentals, special taxes or other sources of payment lawfully authorized for such purpose, as the metropolitan council shall determine. The principal of, and interest on, such bonds shall be payable only out of such special fund or funds, and the owners and holders of such bonds shall have a lien and charge against the gross revenue of such utility or any other revenue, fees, tolls, charges, tariffs, fares, special taxes or other authorized sources pledged to the payment of such bonds.

Such revenue bonds and the interest thereon issued against such fund or funds shall be a valid claim of the holders thereof only as against such fund or funds and the revenue pledged therefor, and shall not constitute a general indebtedness of the metropolitan municipal corporation.

Each such revenue bond shall state upon its face that it is

payable from such special fund or funds; and all revenue bonds issued under this chapter shall be negotiable securities within the provisions of the law of this state. Such revenue bonds may be registered either as to principal only or as to principal and interest, or may be bearer bonds, shall be in such denominations as the metropolitan council shall deem proper; shall be payable at such time or times and at such places as shall be determined by the metropolitan council; shall bear interest at such rate or rates as shall be determined by the metropolitan council, shall be signed by the chairman and attested by the secretary of the metropolitan council, one of which signatures may be a facsimile signature, and the seal of the metropolitan municipal corporation shall be impressed or imprinted thereon; each of the interest coupons shall be signed by the facsimile signatures of said officials.

Such revenue bonds shall be sold in such manner as the metropolitan council shall deem to be for the best interests of the metropolitan municipal corporation, either at public or private sale. The aggregate interest cost to maturity of the money received for such revenue bonds shall not exceed ((seven)) eight percent per annum.

The metropolitan council may at the time of the issuance of such revenue bonds make such covenants with the purchasers and holders of said bonds as it may deem necessary to secure and guarantee the payment of the principal thereof and the interest thereon, including but not being limited to covenants to set aside adequate reserves to secure or guarantee the payment of such principal and interest, to maintain rates sufficient to pay such principal and interest and to maintain adequate coverage over debt service, to appoint a trustee or trustees for the bondholders to safeguard the expenditure of the proceeds of sale of such bonds and to fix the powers and duties of such trustee or trustees and to make such other covenants as the metropolitan council may deem necessary to accomplish the most advantageous sale of such bonds. The metropolitan council may also provide that

revenue bonds payable out of the same source may later be issued on a parity with revenue bonds being issued and sold.

The metropolitan council may include in the principal amount of any such revenue bond issue an amount to establish necessary reserves, an amount for working capital and an amount necessary for interest during the period of construction of any such metropolitan facilities plus six months. The metropolitan council may, if it deems it to the best interest of the metropolitan municipal corporation, provide in any contract for the construction or acquisition of any metropolitan facilities or additions or improvements thereto or replacements or extensions thereof that payment therefor shall be made only in such revenue bonds at the par value thereof.

If the metropolitan municipal corporation shall fail to carry out or perform any of its obligations or covenants made in the authorization, issuance and sale of such bonds, the holder of any such bond may bring action against the metropolitan municipal corporation and compel the performance of any or all of such covenants.

NEW SECTION. Sec. 19. No new internal combustion powered equipment shall be acquired with funds derived from the taxes levied and collected under section 8 of this act or with funds derived from general obligation bonds wholly or partially secured by the taxes levied and collected under section 8 of this act unless they meet the standards for control of pollutants emitted by internal combustion engines as determined by the state air pollution control board, which standards shall not be less than those required by similar federal standards.

NEW SECTION. Sec. 20. The construction of parking facilities to be wholly or partially financed with funds derived from the taxes levied and collected under section 8 of this act or with funds derived from general obligation bonds wholly or partially secured by taxes levied and collected under section 8 of this act shall be in conjunction with and adjacent to public transportation stations or transfer

facilities.

NEW SECTION. Sec. 21. The powers and authority conferred upon municipalities under the provisions of this 1969 act shall be in addition to and supplemental to powers or authority conferred by any other law, and nothing contained herein limits any other power or authority of such municipalities.

NEW SECTION. Sec. 22. If any provision of this 1969 act, or its application to any municipality, person or circumstance is held invalid, the remainder of this 1969 act or the application of the provisions to other municipalities, persons or circumstances is not affected.

Passed the House May 10, 1969
Passed the Senate April 7, 1969
Approved by the Governor May 23, 1969
Filed in office of Secretary of State May 23, 1969

CHAPTER 256
[Substitute House Bill No. 116]
CRIMES AND CRIMINAL PROCEDURES--
RECORDS OF IDENTIFICATION--
NARCOTIC DRUGS, DANGEROUS DRUGS, CANNABIS--
EROTIC MATERIALS

AN ACT Relating to crimes and criminal procedures; amending section 69.33.220, chapter 27, Laws of 1959 and RCW 69.33.220; amending section 69.33.300, chapter 27, Laws of 1959 and RCW 69.33.300; amending section 1, chapter 6, Laws of 1939 as last amended by section 1, chapter 71, Laws of 1967 and RCW 69.40.060; amending section 2, chapter 6, Laws of 1939 as amended by section 23, chapter 38, Laws of 1963, and RCW 69.40.070; adding new sections to chapter 28, Laws of 1959 and to chapter 72.50 RCW; adding a new section to chapter 38, Laws of 1963 and to chapter 69.40 RCW; adding a new section to chapter 69.40 RCW; defining certain crimes; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. There is added to chapter 28, Laws of 1959 and to chapter 72.50 RCW a new section to read as follows:

As used in sections 2 through 5 of this 1969 amendatory act:

# APPENDIX D

# 1971

# SESSION LAWS

OF THE

# STATE OF WASHINGTON

REGULAR SESSION
FORTY-SECOND LEGISLATURE

Convened January 11, 1971. Adjourned March 11, 1971.

1st EXTRAORDINARY SESSION
FORTY-SECOND LEGISLATURE

Convened March 12, 1971. Adjourned May 10, 1971.

Published at Olympia by the Statute Law Committee pursuant to Chapter 6, Laws of 1969.

RICHARD O. WHITE
Code Reviser

Veto Message

that I have no sympathy for those who sell or attempt to sell narcotic or dangerous drugs, nor do I, in any way, mean to infer that the law should not deal strictly with such persons. However, I have had to veto this section for technical reasons. Second Substitute Senate Bill No. 146, the Uniform Controlled Substances Act, which I have signed into law, replaces and repeals the previous laws of this state relating to narcotic or dangerous drugs. The new law does not define narcotic or dangerous drugs but sets up five classifications of controlled substances. There is, as a consequence, no definition to which section 2 of SB 108 can refer. Furthermore, SSSB 146 does not at any point define sale or attempted sale either for profit or without profit as a crime. Delivery is defined as a criminal violation but sale is not. As a consequence, once again, there is nothing in this aspect to which section 2 of SB 108 can refer. Section 2 is thus technically deficient and would create confusion and ambiguity in the law.

For these reasons, but with the hope that appropriate controls of the problems of drug trafficking and drug abuse will continue to be acted upon by the legislature, as done in SSSB 146 and SB 273, I have vetoed section 2 of SB 108 and have approved section 1."

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## CHAPTER 296

[Engrossed Senate Bill No. 691]

## FINANCING OF PUBLIC TANSPORTATION SERVICE

AN ACT Relating to revenue and taxation and public transportation; amending section 2, chapter 111, Laws of 1965 ex. sess. as last amended by section 2, chapter 255, Laws of 1969 ex. sess. and RCW 35.95.020; amending section 4, chapter 111, Laws of 1965 ex. sess. and RCW 35.95.040; amending section 5, chapter 111, Laws of 1965 ex. sess. as amended by section 66, chapter 145, Laws of 1967 ex. sess. and RCW 35.95.050; amending section 6, chapter 94, Laws of 1970 ex. sess. and RCW 82.14.050; amending section 7, chapter 94, Laws of 1970 ex. sess. and RCW 82.14.060; creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. The legislature finds that adequate public transportation systems are necessary to the economic, industrial and cultural development of the urban areas of this state

Veto Message

and the health, welfare and prosperity of persons who reside or are employed in such areas or who engage in business therein and such systems are increasingly essential to the functioning of the urban highways of the state. The legislature further finds and declares that fares and tolls for the use of public transportation systems cannot maintain such systems in solvent financial conditions and at the same time meet the need to serve those who cannot reasonably afford or use other forms of transportation. The legislature further finds and declares that additional and alternate means of financing adequate public transportation service are necessary for the cities, metropolitan municipal corporations and counties of this state which provide such service.

NEW SECTION. Sec. 2. There is added to chapter 82.14 RCW a new section to read as follows:

The governing body upon written request by the mayor or other executive officer of any city within a class AA county, a class AA county or any metropolitan municipal corporation within a class AA county, which owns and operates a public transportation system, while not required by legislative mandate to do so, may, by resolution or ordinance for the sole purpose of providing funds for the operation, maintenance or capital needs of public transportation systems and in lieu of the excise taxes authorized by RCW 35.95.040, as now or hereafter amended, submit an authorizing proposition to the voters or include such authorization in a proposition to perform the function of metropolitan public transportation pursuant to chapter 35.58 RCW and if approved by a majority of persons voting thereon, fix and impose a sales and use tax in accordance with the terms of this chapter to be effective on or after July 1, 1972; that such proposition submitted to the voters for authorization shall include language stating that such proposition shall be partially financed by the levying of an additional three-tenths of one percent per dollar on sales transactions within King county: PROVIDED, That during the fiscal year ending June 30, 1973, no more than three million dollars of the sales and use tax levied and collected pursuant to the 1971 amendatory act may be used as qualifying matching funds to authorize a levy of motor vehicle excise taxes during such fiscal year pursuant to chapter 255, 1st ex. sess., Laws of 1969: AND PROVIDED FURTHER, That after June 30, 1973 no sales or use tax levied and collected pursuant to the 1971 amendatory act may be used as such qualifying matching funds. Such tax shall be in addition to the tax authorized by RCW 82.14.030 and shall be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon

the occurrence of any taxable event within such city, county or metropolitan municipal corporation as the case may be. The rate of such tax imposed by such city, county or metropolitan municipal corporation shall be three-tenths of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax): PROVIDED, HOWEVER, That in the event a metropolitan municipal corporation shall impose a sales and use tax pursuant to this chapter no city or county wholly or partly within such metropolitan municipal corporation shall impose a sales and use tax pursuant to this chapter but nothing herein shall prevent such city or county from imposing sales and use taxes pursuant to any other authorization: PROVIDED FURTHER, That in the event a metropolitan municipal corporation or county shall impose a sales and use tax pursuant to this 1971 amendatory act, no city within such county or wholly or partly within such metropolitan municipal corporation shall impose an excise tax pursuant to RCW 35.95.040.

Sec. 3. Section 6, chapter 94, Laws of 1970 ex. sess. and RCW 82.14.050 are each amended to read as follows:

The counties, metropolitan municipal corporations and cities shall contract, prior to the effective date of a resolution or ordinance imposing a sales and use tax, the administration and collection to the state department of revenue, which shall deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by this chapter which is collected by the department of revenue shall be deposited by the state department of revenue in a special fund under the custody of the state treasurer to be known as the local sales and use tax revolving fund. All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW, as they now exist or may hereafter be amended, shall, insofar as they are applicable to state sales and use taxes, be applicable to taxes imposed pursuant to this chapter.

Sec. 4. Section 7, chapter 94, Laws of 1970 ex. sess. and RCW 82.14.060 are each amended to read as follows:

Bimonthly the state treasurer shall make distribution from the local sales and use tax revolving fund to the counties, metropolitan municipal corporations and cities the amount of tax collected on behalf of each county, metropolitan municipal corporation or city, less the deduction provided for in RCW 82.14.050.

In the event that any ordinance or resolution imposes a sales and use tax at a rate in excess of the applicable limits contained herein, such ordinance or resolution shall not be considered void in toto, but only with respect to that portion of the rate which is in excess of the applicable limits contained herein.

NEW SECTION. Sec. 5. If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the Senate May 7, 1971.
Passed the House May 9, 1971.
Approved by the Governor May 21, 1971 with the exception of certain items which are vetoed.
Filed in Office of Secretary of State May 21, 1971.
Note: Governor's explanation of partial veto is as follows:

Veto Message

"...This bill permits the voters within the boundaries of a metropolitan municipal corporation to authorize a local sales tax of three tenths of a percent in lieu of the local household tax in Class AA Counties. It provides the funding mechanism for the financing of a public transportation system to be operated by a metropolitan municipal corporation. Monies raised at the local level through the imposition of the additional sales tax are matchable, with certain limitations, with state funds.

Section 2 provides that the metro council may submit an authorizing proposition to the voters with respect to the issue of the imposition of the sales tax. There is an ambiguity in the first sentence of section 2 with respect to the reference to ownership of a public transportation system. In order to avoid any uncertainty I have, for clarification purposes, item vetoed that reference.

Section 2 also contains a requirement that the proposition submitted to the voters shall include language

Veto Message

stating that such proposition shall be partially financed by the levying of an additional three tenths of one percent per dollar on sales transactions "within King County". The reference to "King County" creates internal inconsistencies within the bill since the bill pertains to a city within a Class AA County, a Class AA County, or any metropolitan municipal corporation within a Class AA County. Since the tax authorization will, in any event, be included in the ballot proposition the clause is functionally superfluous. Accordingly, this item has been vetoed.

Section 2 contains a proviso that after June 30, 1973, no sales or use tax levied and collected pursuant to this act may be used as qualifying matching funds. The effect of this proviso will be that a Class AA County which approves a sales tax will lose state matching funds after 1973 even though cities in all other counties would continue to be eligible to receive state matching funds for public transportation systems. After careful consideration of this question, I have determined to item veto this proviso. With this matching capability restored, the needed long-term funding support for public transportation within a Class AA County will be provided.

With the exception of the items referred to above, the remainder of the bill is approved."

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CHAPTER 297
[Engrossed Senate Bill No. 465]
PILOTAGE--
STUDY AUTHORIZED--
INVESTIGATIONS AND HEARINGS ON PILOTAGE SERVICES

AN ACT Relating to pilotage on Puget Sound; amending section 9, chapter 18, Laws of 1935 as amended by section 6, chapter 15, Laws of 1967 and RCW 88.16.030; amending section 3, chapter 18, Laws of 1935 as amended by section 2, chapter 15, Laws of 1967 and RCW 88.16.050; amending section 4, chapter 18, Laws of 1935 as amended by section 3, chapter 15, Laws of 1967 and RCW 88.16.070; and amending section 13, chapter 18, Laws of 1935 and RCW 88.16.100; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 9, chapter 18, Laws of 1935 as amended by

# APPENDIX E

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1396**

60th Legislature
2007 Regular Session

Passed by the House February 28, 2007
Yeas 96 Nays 1

**Speaker of the House of Representatives**

Passed by the Senate April 17, 2007
Yeas 44 Nays 4

**President of the Senate**

Approved

**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1396** as passed by the House of Representatives and the Senate on the dates hereon set forth.

**Chief Clerk**

FILED

**Secretary of State**
**State of Washington**

# SUBSTITUTE HOUSE BILL 1396

Passed Legislature - 2007 Regular Session

**State of Washington 60th Legislature 2007 Regular Session**

**By** House Committee on Transportation (originally sponsored by Representatives Flannigan, Jarrett, B. Sullivan, Upthegrove, Rodne, Eddy, Kagi, Chase and Schual-Berke)

READ FIRST TIME 02/19/07.

AN ACT Relating to a single ballot proposition for regional transportation investment districts and regional transit authorities at the 2007 general election; amending RCW 36.120.070 and 81.112.030; adding a new section to chapter 29A.36 RCW; creating new sections; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The legislature finds that traffic congestion reduces personal and freight mobility and is detrimental to the economy, air quality, and the quality of life throughout the central Puget Sound area. Effective transportation solutions are essential for the future growth and development of the central Puget Sound area and the welfare of its citizens.

The legislature further finds that investments in both transit and road improvements are necessary to relieve traffic congestion and to improve mobility. The transportation improvements proposed by regional transportation investment districts and regional transit authorities within the central Puget Sound region form integral parts of, and are naturally and necessarily related to, a single regional transportation system. The construction of road and transit projects in a

comprehensive and interrelated manner will help reduce transportation congestion, increase road capacity, promote safety, facilitate mobility, and improve the health, welfare, and safety of the citizens of Washington.

The legislature further finds that under RCW 81.112.030 and 36.120.170 regional transportation investment districts and regional transit authorities are required to submit to the voters propositions for their respective transportation plans on the same ballot at the 2007 general election and that the opportunity to propose a single ballot reflecting a comprehensive, systemic, and interrelated approach to regional transportation would further the legislative intent and provide voters with an easier and more efficient method of expressing their will.

It is therefore the policy and intent of the state of Washington that transportation plans required to be submitted for voter approval at the 2007 general election by a regional transportation investment district and a regional transit authority must be submitted to voters in single ballot question seeking approval of both plans.

**Sec. 2.** RCW 36.120.070 and 2006 c 311 s 8 are each amended to read as follows:

(1) Beginning no sooner than the 2007 general election, two or more contiguous county legislative authorities, or a single county legislative authority as provided under RCW 36.120.030(8), upon receipt of the regional transportation investment plan under RCW 36.120.040, may submit to the voters of the proposed district a single ballot ((~~measure~~)) proposition that approves formation of the district, approves the regional transportation investment plan, and approves the revenue sources necessary to finance the plan. For a county to participate in the plan, the county legislative authority shall, within ninety days after receiving the plan, adopt an ordinance indicating the county's participation. The planning committee may draft the ballot ((~~measure~~)) proposition on behalf of the county legislative authorities, and the county legislative authorities may give notice as required by law for ballot ((~~measures~~)) propositions, and perform other duties as required to submit the ((~~measure~~)) proposition to the voters of the proposed district for their approval or rejection. Counties may negotiate interlocal agreements necessary to implement the plan. The

electorate will be the voters voting within the boundaries of the proposed district. A simple majority of the total persons voting on the single ballot ((~~measure~~)) proposition is required for approval.

(2) ((~~In conjunction with RCW 81.112.030(10), at the 2007 general election~~)) The participating counties shall submit a regional transportation investment plan ((~~on the same ballot along with a proposition to support additional implementation phases of the authority's system and financing plan developed under chapter 81.112 RCW. The plan shall not be considered approved unless voters also approve the proposition to support additional implementation phases of the authority's system and financing plan~~)) at the 2007 general election as part of a single ballot proposition that includes, in conjunction with RCW 81.112.030(10), a plan to support an authority's system and financing plan, or additional implementation phases of the system and financing plan, developed under chapter 81.112 RCW. The regional transportation investment plan shall not be considered approved unless both a majority of the persons voting on the proposition residing in the proposed district vote in favor of the proposition and a majority of the persons voting on the proposition residing within the regional transit authority vote in favor of the proposition.

**Sec. 3.** RCW 81.112.030 and 2006 c 311 s 12 are each amended to read as follows:

Two or more contiguous counties each having a population of four hundred thousand persons or more may establish a regional transit authority to develop and operate a high capacity transportation system as defined in chapter 81.104 RCW.

The authority shall be formed in the following manner:

(1) The joint regional policy committee created pursuant to RCW 81.104.040 shall adopt a system and financing plan, including the definition of the service area. This action shall be completed by September 1, 1992, contingent upon satisfactory completion of the planning process defined in RCW 81.104.100. The final system plan shall be adopted no later than June 30, 1993. In addition to the requirements of RCW 81.104.100, the plan for the proposed system shall provide explicitly for a minimum portion of new tax revenues to be allocated to local transit agencies for interim express services. Upon

adoption the joint regional policy committee shall immediately transmit the plan to the county legislative authorities within the adopted service area.

(2) The legislative authorities of the counties within the service area shall decide by resolution whether to participate in the authority. This action shall be completed within forty-five days following receipt of the adopted plan or by August 13, 1993, whichever comes first.

(3) Each county that chooses to participate in the authority shall appoint its board members as set forth in RCW 81.112.040 and shall submit its list of members to the secretary of the Washington state department of transportation. These actions must be completed within thirty days following each county's decision to participate in the authority.

(4) The secretary shall call the first meeting of the authority, to be held within thirty days following receipt of the appointments. At its first meeting, the authority shall elect officers and provide for the adoption of rules and other operating procedures.

(5) The authority is formally constituted at its first meeting and the board shall begin taking steps toward implementation of the system and financing plan adopted by the joint regional policy committee. If the joint regional policy committee fails to adopt a plan by June 30, 1993, the authority shall proceed to do so based on the work completed by that date by the joint regional policy committee. Upon formation of the authority, the joint regional policy committee shall cease to exist. The authority may make minor modifications to the plan as deemed necessary and shall at a minimum review local transit agencies' plans to ensure feeder service/high capacity transit service integration, ensure fare integration, and ensure avoidance of parallel competitive services. The authority shall also conduct a minimum thirty-day public comment period.

(6) If the authority determines that major modifications to the plan are necessary before the initial ballot proposition is submitted to the voters, the authority may make those modifications with a favorable vote of two-thirds of the entire membership. Any such modification shall be subject to the review process set forth in RCW 81.104.110. The modified plan shall be transmitted to the legislative authorities of the participating counties. The legislative authorities

shall have forty-five days following receipt to act by motion or ordinance to confirm or rescind their continued participation in the authority.

(7) If any county opts to not participate in the authority, but two or more contiguous counties do choose to continue to participate, the authority's board shall be revised accordingly. The authority shall, within forty-five days, redefine the system and financing plan to reflect elimination of one or more counties, and submit the redefined plan to the legislative authorities of the remaining counties for their decision as to whether to continue to participate. This action shall be completed within forty-five days following receipt of the redefined plan.

(8) The authority shall place on the ballot within two years of the authority's formation, a single ballot proposition to authorize the imposition of taxes to support the implementation of an appropriate phase of the plan within its service area. In addition to the system plan requirements contained in RCW 81.104.100(2)(d), the system plan approved by the authority's board before the submittal of a proposition to the voters shall contain an equity element which:

(a) Identifies revenues anticipated to be generated by corridor and by county within the authority's boundaries;

(b) Identifies the phasing of construction and operation of high capacity system facilities, services, and benefits in each corridor. Phasing decisions should give priority to jurisdictions which have adopted transit-supportive land use plans; and

(c) Identifies the degree to which revenues generated within each county will benefit the residents of that county, and identifies when such benefits will accrue.

A simple majority of those voting within the boundaries of the authority is required for approval. If the vote is affirmative, the authority shall begin implementation of the projects identified in the proposition. However, the authority may not submit any authorizing proposition for voter-approved taxes prior to July 1, 1993; nor may the authority issue bonds or form any local improvement district prior to July 1, 1993.

(9) If the vote on a proposition fails, the board may redefine the proposition, make changes to the authority boundaries, and make corresponding changes to the composition of the board. If the

composition of the board is changed, the participating counties shall revise the membership of the board accordingly. The board may then submit the revised proposition or a different proposition to the voters. No single proposition may be submitted to the voters more than twice. Beginning no sooner than the 2007 general election, the authority may place additional propositions on the ballot to impose taxes to support additional phases of plan implementation.

(10) ((~~In conjunction with RCW 36.120.070,~~)) At the 2007 general election, the authority shall submit a proposition to support a system and financing plan or additional implementation phases of the authority's system and financing plan ((~~on the same ballot along with a regional transportation investment plan developed under chapter 36.120 RCW. The proposition shall not be considered approved unless voters also approve the regional transportation investment plan~~)) as part of a single ballot proposition that includes a plan to support a regional transportation investment plan developed under chapter 36.120 RCW. The authority's plan shall not be considered approved unless both a majority of the persons voting on the proposition residing within the authority vote in favor of the proposition and a majority of the persons voting on the proposition residing within the proposed regional transportation investment district vote in favor of the proposition.

(11) Additional phases of plan implementation may include a transportation subarea equity element which (a) identifies the combined authority and regional transportation investment district revenues anticipated to be generated by corridor and by county within the authority's boundaries, and (b) identifies the degree to which the combined authority and regional transportation investment district revenues generated within each county will benefit the residents of that county, and identifies when such benefits will accrue. For purposes of the transportation subarea equity principle established under this subsection, the authority may use the five subareas within the authority's boundaries as identified in the authority's system plan adopted in May 1996.

(12) If the authority is unable to achieve a positive vote on a proposition within two years from the date of the first election on a proposition, the board may, by resolution, reconstitute the authority as a single-county body. With a two-thirds vote of the entire

membership of the voting members, the board may also dissolve the authority.

NEW SECTION. **Sec. 4.** A new section is added to chapter 29A.36 RCW to read as follows:

The election on the single ballot proposition described in RCW 36.120.070 and 81.112.030(10) must be conducted by the auditor of each component county in accordance with the general election laws of the state, except as provided in this section. Notice of the election must be published in one or more newspapers of general circulation in each component county in the manner provided in the general election laws. The single joint ballot proposition required under RCW 36.120.070 and 81.112.030(10) must be in substantially the following form:

**"REGIONAL TRANSPORTATION INVESTMENT DISTRICT (RTID)**

**AND**

**REGIONAL TRANSIT AUTHORITY (RTA)**

**PROPOSITION #1**

**REGIONAL ROADS AND TRANSIT SYSTEM**

To reduce transportation congestion, increase road capacity, promote safety, facilitate mobility, provide for an integrated regional transportation system, and improve the health, welfare, and safety of the citizens of Washington, shall a regional transit authority (RTA) implement a regional rail and transit system to link [insert geographic references] as described in [insert plan name], financed by [insert taxes] imposed by RTA, all as provided in Resolution No. [insert number]; and shall a regional transportation investment district (RTID) be formed and authorized to implement and invest in improving the regional transportation system by replacing vulnerable bridges, improving safety, and increasing capacity on state and local roads to further link major education, employment, and retail centers described in [insert plan name] financed by [insert taxes] imposed by RTID, all as provided in Resolution No. [insert number]; further provided that the RTA taxes shall be imposed only within the boundaries of the RTA, and the RTID taxes shall be imposed only within the boundaries of the RTID?

Yes . . . . . .☐

No . . . . . .☐"

NEW SECTION. **Sec. 5.** Any legal challenges as to the constitutionality of this act must be filed in superior court along with any supporting legal and factual authority within twenty calendar days of the effective date of this act. Notice of a challenge along with any supporting legal and factual authority must be served upon the secretary of state, the attorney general, the district, and the authority. Upon the filing of a challenge, the state, district, and authority have ten calendar days to file any response to the challenge along with any supporting legal and factual authority. The court shall accord priority to hearing the matter and shall, within five calendar days of the filing of the response to the challenge, render its decision and file with the secretary of state a copy of its decision. The decision of the superior court constitutes a final judgment. Any appeal must be filed in the supreme court within ten calendar days after the date of the superior court decision. The supreme court shall issue its ruling on the appeal within thirty days of receipt by the court.

NEW SECTION. **Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**

# APPENDIX F

(4) Section 69, chapter 53, Laws of 1965, section 9, chapter 193, Laws of 1977 ex. sess., section 22, chapter 35, Laws of 1982 and RCW 23A.16.100;

(5) Section 70, chapter 53, Laws of 1965, section 10, chapter 193, Laws of 1977 ex. sess., section 23, chapter 35, Laws of 1982 and RCW 23A.16.110;

(6) Section 71, chapter 53, Laws of 1965, section 11, chapter 193, Laws of 1977 ex. sess., section 24, chapter 35, Laws of 1982 and RCW 23A.16.120; and

(7) Section 72, chapter 53, Laws of 1965 and RCW 23A.16.130.

Passed the Senate February 3, 1984.
Passed the House February 23, 1984.
Approved by the Governor March 1, 1984.
filed in Office of Secretary of State March 1, 1984.

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## CHAPTER 76

[Senate Bill No. 4439]

### STATUTES SUPERSEDED BY COURT RULE——AMENDMENT OR REPEAL

AN ACT Relating to the amendment or repeal of statutes superseded by court rule; amending section 2, page 363, Laws of 1854 as last amended by section 1, chapter 105, Laws of 1980 and RCW 4.16.020; amending section 15, chapter 127, Laws of 1893 as amended by section 4, chapter 86, Laws of 1895 and RCW 4.28.020; amending section 68, page 144, Laws of 1854 as last amended by section 107, Code of 1881 and RCW 4.36.200; amending section 198, page 167, Laws of 1854 as last amended by section 240, Code of 1881 and RCW 4.44-.410; amending section 3, chapter 65, Laws of 1921 and RCW 4.64.100; amending section 318, page 64, Laws of 1877 as amended by section 314, Code of 1881 and RCW 4.68.010; amending section 93, page 116, Laws of 1854 as last amended by section 1, chapter 143, Laws of 1969 ex. sess. and RCW 10.52.040; amending section 7, chapter 94, Laws of 1969 and RCW 36.26.070; amending section 9, chapter 94, Laws of 1969 as amended by section 76, chapter 36, Laws of 1983 and RCW 36.26.090; repealing section 1, page 131, Laws of 1854, section 1, page 5, Laws of 1860, section 1, page 3, Laws of 1871, section 2, page 3, Laws of 1877, section 2, Code of 1881 and RCW 4.04.020; repealing section 2, page 131, Laws of 1854, section 4, page 3, Laws of 1877, section 3, Code of 1881 and RCW 4.04.030; repealing section 4, page 131, Laws of 1854, section 5, page 4, Laws of 1869, section 5, page 4, Laws of 1877, section 5, Code of 1881 and RCW 4.08.020; repealing section 10, page 132, Laws of 1854, section 16, page 6, Laws of 1877, section 16, Code of 1881 and RCW 4.08.090; repealing section 20, page 6, Laws of 1869, section 20, page 6, Laws of 1877, section 20, Code of 1881 and RCW 4.08-.130; repealing section 23, page 7, Laws of 1877, section 23, Code of 1881 and RCW 4.08.190; repealing section 1, page 362, Laws of 1854, section 1, page 289, Laws of 1860, section 16, page 85, Laws of 1863, section 25, page 8, Laws of 1869, section 25, page 8, Laws of 1873, section 25, Code of 1881, section 1, page 74, Laws of 1885, section 1, chapter 51, Laws of 1891 and RCW 4.16.010; repealing section 1, chapter 127, Laws of 1893, section 1, chapter 86, Laws of 1895, section 2, chapter 131, Laws of 1971 ex. sess. and RCW 4.28.010; repealing section 2, chapter 127, Laws of 1893 and RCW 4.28.030; repealing section 3, chapter 127, Laws of 1893 and RCW 4.28.040; repealing section 4, chapter 127, Laws of 1893 and RCW 4.28.050; repealing section 5, chapter 127, Laws of 1893 and RCW 4.28.060; repealing section 6, chapter 127, Laws of 1893, section 4, chapter 292, Laws of 1971 ex. sess. and RCW 4.28-.070; repealing section 1, chapter 144, Laws of 1903 and RCW 4.28.130; repealing section 13, chapter 127, Laws of 1893 and RCW 4.28.190; repealing section 2140, Code of 1881, section 1, chapter 95, Laws of 1897 and RCW 4.28.220; repealing section 18, chapter 127, Laws of 1893 and RCW 4.28.230; repealing section 19, chapter 127, Laws of 1893 and RCW 4.28.240; repealing section 20, chapter 127, Laws of 1893 and RCW 4.28.250; repealing section 21,

chapter 127, Laws of 1893 and RCW 4.28.260; repealing section 22, chapter 127, Laws of 1893 and RCW 4.28.270; repealing section 23, chapter 127, Laws of 1893 and RCW 4.28.280; repealing section 17, page 69, Laws of 1866, section 2358, Code of 1881 and RCW 4.28.300; repealing section 14, chapter 127, Laws of 1893 and RCW 4.28.310; repealing section 36, page 138, Laws of 1854, section 71, page 17, Laws of 1869, section 73, page 17, Laws of 1877, section 73, Code of 1881 and RCW 4.32.010; repealing section 37, page 139, Laws of 1854, section 72, page 20, Laws of 1869, section 74, page 17, Laws of 1877, section 74, Code of 1881 and RCW 4.32.020; repealing section 38, page 139, Laws of 1854, section 75, page 17, Laws of 1877, section 75, Code of 1881 and RCW 4.32.030; repealing section 40, page 139, Laws of 1854, section 77, Code of 1881, section 1, page 75, Laws of 1886, section 2, chapter 62, Laws of 1891 and RCW 4.32.050; repealing section 41, page 139, Laws of 1854, section 78, page 18, Laws of 1877, section 78, Code of 1881 and RCW 4.32.060; repealing section 44, page 139, Laws of 1854, section 82, page 18, Laws of 1877, section 82, Code of 1881 and RCW 4.32-.080; repealing section 45, page 140, Laws of 1854, section 81, page 21, Laws of 1869, section 83, page 19, Laws of 1877, section 83, Code of 1881 and RCW 4.32.090; repealing section 81, page 21, Laws of 1869, section 83, chapter 19, Laws of 1877, section 83, Code of 1881 and RCW 4.32.100; repealing section 501, page 107, Laws of 1877, section 497, Code of 1881 and RCW 4.32.110; repealing section 78, page 20, Laws of 1869, section 80, page 18, Laws of 1877, section 80, Code of 1881 and RCW 4.32.160; repealing section 46, page 140, Laws of 1854, section 84, page 19, Laws of 1877, section 84, Code of 1881 and RCW 4.32.180; repealing section 43, page 139, Laws of 1854, section 81, page 18, Laws of 1877, section 81, Code of 1881 and RCW 4.32.190; repealing section 48, page 140, Laws of 1854, section 85, page 22, Laws of 1869, section 87, page 19, Laws of 1877, section 87, Code of 1881 and RCW 4.32-.200; repealing section 48, page 140, Laws of 1854, section 84, page 22, Laws of 1869, section 86, page 19, Laws of 1877, section 86, Code of 1881 and RCW 4.32.210; repealing section 50, page 140, Laws of 1854, section 87, page 22, Laws of 1869, section 89, page 20, Laws of 1877, section 89, Code of 1881 and RCW 4.32.220; repealing section 69, page 144, Laws of 1854, section 20, page 11, Laws of 1875, section 109, Code of 1881, section 3, chapter 62, Laws of 1891 and RCW 4.32.240; repealing section 37, chapter 127, Laws of 1893 and RCW 4.32.260; repealing sections 53 and 54, page 141, Laws of 1854, section 1, page 92, Laws of 1867, section 89, page 23, Laws of 1869, section 91, Code of 1881, section 1, page 29, Laws of 1888 and RCW 4.36.010; repealing section 603, page 154, Laws of 1869, section 666, page 137, Laws of 1877, section 663, Code of 1881 and RCW 4.36.020; repealing section 54, page 141, Laws of 1854, section 90, page 23, Laws of 1869, section 92, page 20, Laws of 1877, section 92, Code of 1881 and RCW 4.36.030; repealing section 55, page 142, Laws of 1854, section 93, page 21, Laws of 1877, section 93, Code of 1881 and RCW 4.36.040; repealing section 56, page 143, Laws of 1854, section 94, page 21, Laws of 1877, section 94, Code of 1881 and RCW 4.36-.050; repealing section 57, page 142, Laws of 1854, section 95, page 21, Laws of 1877, section 95, Code of 1881 and RCW 4.36.060; repealing section 60, page 142, Laws of 1854, section 98, page 21, Laws of 1877, section 98, Code of 1881 and RCW 4.36.090; repealing section 2063, Code of 1881 and RCW 4.36.100; repealing section 2064, Code of 1881 and RCW 4.36.110; repealing section 64, page 143, Laws of 1854, section 5, page 51, Laws of 1861, section 100, page 25, Laws of 1869, section 102, Code of 1881, section 1, chapter 92, Laws of 1907 and RCW 4.36.150; repealing section 101, page 26, Laws of 1869, section 103, page 22, Laws of 1877, section 103, Code of 1881 and RCW 4.36.160; repealing section 67, page 144, Laws of 1854, section 106, page 23, Laws of 1877, section 106, Code of 1881 and RCW 4.36-.190; repealing section 109, page 27, Laws of 1869, section 111, page 24, Laws of 1877, section 111, Code of 1881 and RCW 4.36.220; repealing section 70, page 144, Laws of 1854, section 110, page 28, Laws of 1869, section 112, page 24, Laws of 1877, section 112, Code of 1881 and RCW 4.36.230; repealing section 72, page 144, Laws of 1854, section 114, page 24, Laws of 1877, section 114, Code of 1881 and RCW 4.36.250; repealing section 180, page 163, Laws of 1854, section 205, page 42, Laws of 1877, section 201, Code of 1881, section 29, chapter 127, Laws of 1893 and RCW 4.40.020; repealing sections 181, 182, page 163, Laws of 1854, sections 206, 207, page 42, Laws of 1877, sections 202, 203, Code of 1881, section 30, chapter 127, Laws of 1893 and RCW 4.40.030; repealing section 31, chapter 127, Laws of 1893 and RCW 4.44.010; repealing section 184, page 164, Laws of 1854, section 209, page 50, Laws of 1869, section 209, page 43, Laws of 1877, section 205, Code of 1881 and RCW 4.44.040; repealing section 196, page 166, Laws of 1854, section 236, page 57, Laws of 1869, section 236, page 48, Laws of 1877, section 232, Code of 1881, section 1, chapter 60, Laws of 1891 and RCW 4.44.320; repealing section 220, page 171, Laws of 1854, section 285, page 69, Laws of

1869, section 287, page 57, Laws of 1877, section 283, Code of 1881 and RCW 4.56.010; repealing section 1, chapter 43, Laws of 1903, section 1, chapter 205, Laws of 1909, section 2, chapter 304, Laws of 1961, section 2, chapter 57, Laws of 1972 ex. sess. and RCW 4.44.100; repealing section 221, page 171, Laws of 1854, section 286, page 69, Laws of 1869, section 289, page 58, Laws of 1877, section 284, Code of 1881 and RCW 4.56.030; repealing section 222, page 171, Laws of 1854, section 287, page 69, Laws of 1869, section 288, page 58, Laws of 1877, section 285, Code of 1881 and RCW 4.56.040; repealing section 225, page 171, Laws of 1854, section 291, page 70, Laws of 1869, section 293, page 59, Laws of 1877, section 289, Code of 1881 and RCW 4.56.160; repealing section 225, page 171, Laws of 1854, section 292, page 72, Laws of 1869, section 294, page 60, Laws of 1877, section 290, Code of 1881 and RCW 4.56.170; repealing section 49, page 140, Laws of 1854, section 86, page 22, Laws of 1869, section 88, page 19, Laws of 1877, section 88, Code of 1881 and RCW 4.56.180; repealing section 1, chapter 65, Laws of 1921 and RCW 4.64.010; repealing section 5, page 22, Laws of 1875, section 442, page 97, Laws of 1877, section 440, Code of 1881, section 3, chapter 27, Laws of 1891 and RCW 4.72.040; repealing section 7, chapter 60, Laws of 1893, section 20, chapter 81, Laws of 1971 and RCW 4.80.050; repealing section 2, chapter 29, Laws of 1911 and RCW 10.01.080; repealing section 53, chapter 249, Laws of 1909, section 1, chapter 151, Laws of 1941, section 1, chapter 133, Laws of 1965 and RCW 10.01.110; repealing section 172, page 260, Laws of 1854, section 185, page 382, Laws of 1873, section 1888, Code of 1881 and RCW 10.04.010; repealing section 174, page 260, Laws of 1854, section 186, page 382, Laws of 1873, section 1889, Code of 1881 and RCW 10.04.030; repealing section 27, page 106, Laws of 1854, section 219, page 392, Laws of 1873, section 1921, Code of 1881 and RCW 10.16.010; repealing section 29, page 107, Laws of 1854, section 221, page 394, Laws of 1873, section 1923, Code of 1881, section 11, chapter 11, Laws of 1891 and RCW 10.16.030; repealing section 30, page 107, Laws of 1854, section 222, page 394, Laws of 1873, section 1924, Code of 1881 and RCW 10.16.040; repealing section 33, page 108, Laws of 1854, section 225, page 395, Laws of 1873, section 1927, Code of 1881, section 13, chapter 11, Laws of 1891 and RCW 10.16.070; repealing section 36, page 108, Laws of 1854, section 228, page 396, Laws of 1873, section 1929, Code of 1881, section 14, chapter 11, Laws of 1891 and RCW 10.16.140; repealing section 43, page 109, Laws of 1854, section 185, page 141, Laws of 1859, section 216, page 390, Laws of 1863, section 235, page 397, Laws of 1873, section 1936, Code of 1881 and RCW 10.16.190; repealing section 58, chapter 249, Laws of 1909 and RCW 10.19.010; repealing section 72, page 113, Laws of 1854, section 208, page 229, Laws of 1873, section 1028, Code of 1881, section 42, chapter 28, Laws of 1891 and RCW 10.19.020; repealing section 5, page 101, Laws of 1890 and RCW 10.19.025; repealing section 178, page 129, Laws of 1854, section 1169, Code of 1881 and RCW 10.19.050; repealing section 80, page 114, Laws of 1854, section 216, page 230, Laws of 1873, section 1036, Code of 1881 and RCW 10.19.070; repealing section 81, page 114, Laws of 1854, section 217, page 230, Laws of 1873, section 1037, Code of 1881 and RCW 10.19.080; repealing section 10, page 75, Laws of 1879, section 780, Code of 1881, section 4, chapter 28, Laws of 1891 and RCW 10.25.010; repealing section 129, page 99, Laws of 1854, section 959, Code of 1881 and RCW 10.25.020; repealing section 130, page 99, Laws of 1854, section 960, Code of 1881, section 5, chapter 28, Laws of 1891 and RCW 10.25.030; repealing section 131, page 99, Laws of 1854, section 961, Code of 1881 and RCW 10.25.040; repealing section 132, page 99, Laws of 1854, section 962, Code of 1881 and RCW 10.25.050; repealing section 958, Code of 1881, section 6, chapter 28, Laws of 1891 and RCW 10.25.060; repealing section 99, page 117, Laws of 1854, section 1073, Code of 1881, section 8, chapter 28, Laws of 1891 and RCW 10.25.080; repealing section 237, page 235, Laws of 1873, section 1075, Code of 1881 and RCW 10.25.090; repealing section 100, page 117, Laws of 1854, section 1076, Code of 1881, section 9, chapter 28, Laws of 1891 and RCW 10.25.100; repealing section 119, page 120, Laws of 1854, section 255, page 238, Laws of 1873, section 1094, Code of 1881, section 72, chapter 28, Laws of 1891 and RCW 10.25.110; repealing section 70, page 113, Laws of 1854, section 206, page 228, Laws of 1873, section 1026, Code of 1881, section 41, chapter 28, Laws of 1891 and RCW 10.31.010; repealing section 71, page 113, Laws of 1854, section 214, page 146, Laws of 1860, section 207, page 228, Laws of 1873, section 1027, Code of 1881, section 1, chapter 39, Laws of 1929 and RCW 10.31.020; repealing section 771, Code of 1881, section 59, chapter 249, Laws of 1909 and RCW 10.37.020; repealing section 181, page 240, Laws of 1869, section 186, page 224, Laws of 1873, section 1003, Code of 1881, section 19, chapter 28, Laws of 1891 and RCW 10.37.025; repealing section 1, page 100, Laws of 1890, section 1, chapter 117, Laws of 1891, section 1, chapter 87, Laws of 1909 and RCW 10.37.026; repealing section 2, page 101, Laws of 1890, section 2, chapter 150, Laws of 1925 ex. sess. and RCW 10.37.030; repealing

81 and RCW 4.56.010; re-
, Laws of 1909, section 2,
. sess. and RCW 4.44.100;
69, Laws of 1869, section
4.56.030; repealing section
ection 288, page 58, Laws
ction 225, page 171, Laws
Laws of 1877, section 289,
Laws of 1854, section 292,
n 290, Code of 1881 and
ion 86, page 22, Laws of
nd RCW 4.56.180; repeal-
g section 5, page 22, Laws
881, section 3, chapter 27,
Laws of 1893, section 20,
chapter 29, Laws of 1911
19, section 1, chapter 151,
.01.110; repealing section
ction 1888, Code of 1881
4, section 186, page 382,
epealing section 27, page
1921, Code of 1881 and
n 221, page 394, Laws of
.91 and RCW 10.16.030;
4, Laws of 1873, section
108, Laws of 1854, sec-
. 13, chapter 11, Laws of
1854, section 228, page
11, Laws of 1891 and
1 185, page 141, Laws of
vs of 1873, section 1936,
Laws of 1909 and RCW
page 229, Laws of 1873,
nd RCW 10.19.020; re-
ealing section 178, page
0; repealing section 80,
1036, Code of 1881 and
217, page 230, Laws of
on 10, page 75, Laws of
nd RCW 10.25.010; re-
l and RCW 10.25.020;
l, section 5, chapter 28,
vs of 1854, section 961,
vs of 1854, section 962,
, section 6, chapter 28,
Laws of 1854, section
).25.080; repealing sec-
W 10.25.090; repealing
on 9, chapter 28, Laws
1854, section 255, page
28, Laws of 1891 and
106, page 228, Laws of
and RCW 10.31.010;
Laws of 1860, section
pter 39, Laws of 1929
chapter 249, Laws of
369, section 186, page
8, Laws of 1891 and
chapter 117, Laws of
g section 2, page 101,
10.37.030; repealing

section 7, chapter 49, Laws of 1970 ex. sess. and RCW 10.37.033; repealing section 18, chapter 28, Laws of 1891 and RCW 10.37.035; repealing section 187, page 241, Laws of 1869, section 192, page 225, Laws of 1873, section 1009, Code of 1881, section 25, chapter 28, Laws of 1891 and RCW 10.37.180; repealing section 46, chapter 28, Laws of 1891 and RCW 10.40.010; repealing section 92, page 116, Laws of 1854, section 228, page 232, Laws of 1873, section 1066, Code of 1881, section 47, chapter 28, Laws of 1891 and RCW 10.40.020; repealing section 89, page 116, Laws of 1854, section 89, page 116, Laws of 1855, section 232, page 149, Laws of 1860, section 225, page 232, Laws of 1873, section 1063, Code of 1881 and RCW 10.40.030; repealing section 90, page 116, Laws of 1854, section 21, page 248, Laws of 1869, section 226, page 232, Laws of 1873, section 1064, Code of 1881, section 48, chapter 28, Laws of 1891 and RCW 10.40.040; repealing section 51, chapter 28, Laws of 1891, section 2, chapter 10, Laws of 1957 and RCW 10.40.080; repealing section 1049, Code of 1881, section 53, chapter 28, Laws of 1891 and RCW 10.40.130; repealing section 1054, Code of 1881, section 57, chapter 28, Laws of 1891 and RCW 10.40.150; repealing section 1055, Code of 1881, section 58, chapter 28, Laws of 1891 and RCW 10.40.160; repealing section 1057, Code of 1881 and RCW 10.40.175; repealing section 777, Code of 1881, section 63, chapter 249, Laws of 1909 and RCW 10.43.010; repealing section 772, Code of 1881, section 60, chapter 249, Laws of 1909 and RCW 10.46.010; repealing section 83, page 115, Laws of 1854, section 219, page 230, Laws of 1873, section 1039, Code of 1881, section 45, chapter 28, Laws of 1891 and RCW 10.46.040; repealing section 55, chapter 249, Laws of 1909 and RCW 10.46.050; repealing section 775, Code of 1881, section 62, chapter 249, Laws of 1909 and RCW 10.46.090; repealing section 116, page 120, Laws of 1854, section 252, page 237, Laws of 1873, section 1091, Code of 1881, section 71, chapter 28, Laws of 1891, section 1, chapter 16, Laws of 1919 and RCW 10.46.100; repealing section 109, page 119, Laws of 1854, section 247, page 237, Laws of 1873, section 1086, Code of 1881 and RCW 10.46.120; repealing section 110, page 119, Laws of 1854, section 248, page 237, Laws of 1873, section 1087, Code of 1881 and RCW 10.46.130; repealing section 118, page 120, Laws of 1854, section 254, page 238, Laws of 1873, section 1093, Code of 1881 and RCW 10.46.170; repealing section 120, page 120, Laws of 1854, section 256, page 238, Laws of 1873, section 1095, Code of 1881, section 73, chapter 28, Laws of 1891 and RCW 10.46.180; repealing section 101, page 118, Laws of 1854, section 239, page 236, Laws of 1873, section 1078, Code of 1881, section 66, chapter 28, Laws of 1891 and RCW 10.49.020; repealing section 104, page 118, Laws of 1854, section 242, page 236, Laws of 1873, section 1081, Code of 1881 and RCW 10.49.030; repealing section 105, page 119, Laws of 1854, section 243, page 236, Laws of 1873, section 1082, Code of 1881 and RCW 10.49.040; repealing section 106, page 119, Laws of 1854, section 244, page 234, Laws of 1873, section 1083, Code of 1881, section 67, chapter 28, Laws of 1891 and RCW 10.49-.050; repealing section 102, page 118, Laws of 1854, section 1079, Code of 1881, section 1, chapter 25, Laws of 1923, section 1, chapter 41, Laws of 1969 ex. sess. and RCW 10.49.060; repealing section 1, chapter 37, Laws of 1917 and RCW 10.49.070; repealing section 107, page 119, Laws of 1854, section 245, page 236, Laws of 1873, section 1084, Code of 1881, section 68, chapter 28, Laws of 1891 and RCW 10.49.100; repealing section 114, page 119, Laws of 1854, section 250, page 237, Laws of 1873, section 1089, Code of 1881 and RCW 10.49.110; repealing section 38, chapter 249, Laws of 1909 and RCW 10.52.030; repealing section 124, page 120, Laws of 1854, section 260, page 239, Laws of 1873, section 1099, Code of 1881, section 77, chapter 28, Laws of 1891 and RCW 10.61.030; repealing section 127, page 121, Laws of 1854, section 263, page 239, Laws of 1873, section 1102, Code of 1881, section 80, chapter 28, Laws of 1891 and RCW 10.61.040; repealing section 128, page 121, Laws of 1854, section 1, page 101, Laws of 1865, section 264, page 239, Laws of 1873, section 1103, Code of 1881 and RCW 10.61.050; repealing section 136, page 123, Laws of 1854, section 272, page 241, Laws of 1873, section 1114, Code of 1881 and RCW 10.64.010; repealing section 137, page 123, Laws of 1854, section 273, page 241, Laws of 1873, section 1115, Code of 1881 and RCW 10.64.020; repealing section 138, page 123, Laws of 1854, section 274, page 241, Laws of 1873, section 1116, Code of 1881 and RCW 10.64.030; repealing section 140, page 123, Laws of 1854, section 276, page 242, Laws of 1873, section 1118, Code of 1881 and RCW 10.64.035; repealing section 139, page 123, Laws of 1854, section 275, page 242, Laws of 1873, section 1117, Code of 1881 and RCW 10.64.040; repealing section 774, Code of 1881, section 61, chapter 249, Laws of 1909 and RCW 10.64.090; repealing section 130, page 121, Laws of 1854, section 266, page 240, Laws of 1873, section 1105, Code of 1881, section 81, chapter 28, Laws of 1891, section 5, chapter 150, Laws of 1925 ex. sess. and RCW 10.67.010; repealing section 131, page 122, Laws of 1854, section 267, page 240, Laws of 1873, section 1106, Code of 1881 and RCW 10.67.030; repealing section 1, page 100, Laws of 1854, section

153, page 216, Laws of 1873, section 967, Code of 1881 and RCW 10.79.010; and repealing section 4, page 101, Laws of 1854, section 156, page 217, Laws of 1873, section 970, Code of 1881, section 2, chapter 86, Laws of 1949 and RCW 10.79.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, page 363, Laws of 1854 as last amended by section 1, chapter 105, Laws of 1980 and RCW 4.16.020 are each amended to read as follows:

The period prescribed ((~~in RCW 4.16.010~~)) for the commencement of actions shall be as follows:

Within ten years:

(1) Actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appears that the plaintiff, his ancestor, predecessor or grantor was seized or possessed of the premises in question within ten years before the commencement of the action.

(2) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or of any territory or possession of the United States outside the boundaries thereof, or of any extraterritorial court of the United States.

Sec. 2. Section 15, chapter 127, Laws of 1893 as amended by section 4, chapter 86, Laws of 1895 and RCW 4.28.020 are each amended to read as follows:

From the time of the commencement of the action by service of summons, or by the filing of a complaint, or as otherwise provided, the court is deemed to have acquired jurisdiction and to have control of all subsequent proceedings. ((~~A voluntary appearance of a defendant is equivalent to a personal service of the summons upon him.~~))

Sec. 3. Section 68, page 144, Laws of 1854 as last amended by section 107, Code of 1881 and RCW 4.36.200 are each amended to read as follows:

When, however, the allegation of the cause of action or defense, to which the proof is directed, is not proved, not in some particular or particulars only, but in its entire scope and meaning, it shall not be deemed a case of variance within RCW 4.36.180 ((~~and 4.36.190~~)), but a failure of proof.

Sec. 4. Section 198, page 167, Laws of 1854 as last amended by section 240, Code of 1881 and RCW 4.44.410 are each amended to read as follows:

The verdict of a jury is either general or special. ((~~A general verdict is that by which the jury pronounces generally upon all or any of the issues either in favor of the plaintiff or defendant. A special verdict is that by which the jury finds the facts only, leaving the judgment to the court.~~))

Sec. 5. Section 3, chapter 65, Laws of 1921 and RCW 4.64.100 are each amended to read as follows:

The clerk shall, on request and at the expense of the party in whose favor the verdict is rendered, or his attorney, prepare an abstract of such

# APPENDIX G

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE SENATE BILL 6566**

59th Legislature
2006 Regular Session

Passed by the Senate March 8, 2006
YEAS 47 NAYS 0

**President of the Senate**

Passed by the House March 8, 2006
YEAS 98 NAYS 0

**Speaker of the House of Representatives**

Approved

**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6566** as passed by the Senate and the House of Representatives on the dates hereon set forth.

**Secretary**

FILED

**Secretary of State**
**State of Washington**

# ENGROSSED SUBSTITUTE SENATE BILL 6566

AS AMENDED BY THE HOUSE

Passed Legislature - 2006 Regular Session

**State of Washington 59th Legislature 2006 Regular Session**

**By** Senate Committee on Transportation (originally sponsored by Senators Eide, Esser, Swecker, Haugen, Prentice and McAuliffe; by request of Department of Transportation)

READ FIRST TIME 02/02/06.

AN ACT Relating to commute trip reduction; amending RCW 70.94.524, 70.94.527, 70.94.531, 70.94.534, 70.94.537, 70.94.541, 70.94.544, 70.94.547, and 70.94.551; and adding new sections to chapter 70.94 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec. 1.** RCW 70.94.524 and 1991 c 202 s 11 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "A major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months during the year.

(2) "Major worksite" means a building or group of buildings that are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights of way, and at which there are one hundred or more full-time employees ((~~of one or more employers~~)), who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months.

(3) ((~~"Commute trip reduction zones" mean areas, such as census tracts or combinations of census tracts, within a jurisdiction that are characterized by similar employment density, population density, level of transit service, parking availability, access to high occupancy vehicle facilities, and other factors that are determined to affect the level of single occupancy vehicle commuting.~~

~~(4)~~)) "Major employment installation" means a military base or federal reservation, excluding tribal reservations, at which there are one hundred or more full-time employees, who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months during the year.

(4) "Person hours of delay" means the daily person hours of delay per mile in the peak period of 6:00 a.m. to 9:00 a.m., as calculated using the best available methodology by the department of transportation.

(5) "Commute trip" means trips made from a worker's home to a worksite during the peak period of 6:00 a.m. to 9:00 a.m. on weekdays.

((~~(5)~~)) (6) "Proportion of single-occupant vehicle commute trips" means the number of commute trips made by single-occupant automobiles divided by the number of full-time employees.

((~~(6)~~)) (7) "Commute trip vehicle miles traveled per employee" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.

((~~(7)~~)) (8) "Base year" means the ((~~year January 1, 1992, through December 31, 1992, on which goals for vehicle miles traveled and single occupant vehicle trips shall be based. Base year goals may be determined using the 1990 journey to work census data projected to the year 1992 and shall be consistent with the growth management act. The task force shall establish a method to be used by jurisdictions to determine reductions of vehicle miles traveled~~)) twelve-month period commencing when a major employer is determined to be participating by the local jurisdiction, on which commute trip reduction goals shall be based.

(9) "Growth and transportation efficiency center" means a defined, compact, mixed-use urban area that contains jobs or housing and supports multiple modes of transportation. For the purpose of funding, a growth and transportation efficiency center must meet minimum

criteria established by the commute trip reduction board under RCW 70.94.537, and must be certified by a regional transportation planning organization as established in RCW 47.80.020.

(10)(a) "Affected urban growth area" means:

(i) An urban growth area, designated pursuant to RCW 36.70A.110, whose boundaries contain a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, and any contiguous urban growth areas; and

(ii) An urban growth area, designated pursuant to RCW 36.70A.110, containing a jurisdiction with a population over seventy thousand that adopted a commute trip reduction ordinance before the year 2000, and any contiguous urban growth areas.

(b) Affected urban growth areas will be listed by the department of transportation in the rules for this act using the criteria identified in (a) of this subsection.

(11) "Certification" means a determination by a regional transportation planning organization that a locally designated growth and transportation efficiency center program meets the minimum criteria developed in a collaborative regional process and the rules established by the department of transportation.

**Sec. 2.** RCW 70.94.527 and 1997 c 250 s 2 are each amended to read as follows:

(1) Each county ((~~with a population over one hundred fifty thousand, and each city or town within those counties containing a major employer shall, by October 1, 1992, adopt by ordinance and implement a commute trip reduction plan for all major employers. The plan shall be developed in cooperation with local transit agencies, regional transportation planning organizations as established in RCW 47.80.020, major employers, and the owners of and employers at major worksites~~)) containing an urban growth area, designated pursuant to RCW 36.70A.110, and each city within an urban growth area with a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, as well as those counties and cities located in any contiguous urban growth areas, shall adopt a commute trip reduction plan and ordinance for major employers in the affected urban growth area by a date specified by the commute trip reduction board. Jurisdictions located within an urban

growth area with a population greater than seventy thousand that adopted a commute trip reduction ordinance before the year 2000, as well as any jurisdiction within contiguous urban growth areas, shall also adopt a commute trip reduction plan and ordinance for major employers in the affected urban growth area by a date specified by the commute trip reduction board. Jurisdictions containing a major employment installation in a county with an affected growth area, designated pursuant to RCW 36.70A.110, shall adopt a commute trip reduction plan and ordinance for major employers in the major employment installation by a date specified by the commute trip reduction board. The ordinance shall establish the requirements for major employers and provide an appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of the ordinance, may obtain waiver or modification of those requirements. The plan shall be designed to achieve reductions in the proportion of single-occupant vehicle commute trips and ((~~the commute trip vehicle miles traveled per employee by employees of major public and private sector employers in the jurisdiction~~)) be consistent with the rules established by the department of transportation. The county, city, or town shall submit its adopted plan to the regional transportation planning organization. The county, city, or town plan shall be included in the regional commute trip reduction plan for regional transportation planning purposes, consistent with the rules established by the department of transportation in RCW 70.94.537.

(2) All other counties, ((~~and~~)) cities, and towns ((~~in those counties,~~)) may adopt and implement a commute trip reduction plan consistent with department of transportation rules established under RCW 70.94.537. Tribal governments are encouraged to adopt a commute trip reduction plan for their lands. State investment in voluntary commute trip reduction plans shall be limited to those areas that meet criteria developed by the commute trip reduction board.

(3) The department of ecology may, after consultation with the department of transportation, as part of the state implementation plan for areas that do not attain the national ambient air quality standards for carbon monoxide or ozone, require municipalities other than those identified in subsection (1) of this section to adopt and implement

commute trip reduction plans if the department determines that such plans are necessary for attainment of said standards.

(4) A commute trip reduction plan shall be consistent with the ((~~guidelines~~)) rules established under RCW 70.94.537 and shall include but is not limited to (a) goals for reductions in the proportion of single-occupant vehicle commute trips ((~~and the commute trip vehicle miles traveled per employee~~)) consistent with the state goals established by the commute trip reduction board under RCW 70.94.537 and the regional commute trip reduction plan goals established in the regional commute trip reduction plan; (b) ((~~designation of commute trip reduction zones; (c)~~)) a description of the requirements for major public and private sector employers to implement commute trip reduction programs; ((~~(d)~~)) (c) a commute trip reduction program for employees of the county, city, or town; ((~~(e) a review of local parking policies and ordinances as they relate to employers and major worksites and any revisions necessary to comply with commute trip reduction goals and guidelines; (f) an appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of a commute trip reduction plan, may obtain waiver or modification of those requirements; and (g)~~)) and (d) means, consistent with rules established by the department of transportation, for determining base year values ((~~of the proportion of single occupant vehicle commute trips and the commute trip vehicle miles traveled per employee~~)) and progress toward meeting commute trip reduction plan goals ((~~on an annual basis. Goals which are established shall take into account existing transportation demand management efforts which are made by major employers. Each jurisdiction shall ensure that employers shall receive full credit for the results of transportation demand management efforts and commute trip reduction programs which have been implemented by major employers prior to the base year. The goals for miles traveled per employee for all major employers shall not be less than a fifteen percent reduction from the worksite base year value or the base year value for the commute trip reduction zone in which their worksite is located by January 1, 1995, twenty percent reduction from the base year values by January 1, 1997, twenty five percent reduction from the base year values by January 1, 1999, and a thirty five percent reduction from the base year values by January 1, 2005.~~

~~(5) A county, city, or town may, as part of its commute trip reduction plan, require commute trip reduction programs for employers with ten or more full time employees at major worksites in federally designated nonattainment areas for carbon monoxide and ozone. The county, city or town shall develop the programs in cooperation with affected employers and provide technical assistance to the employers in implementing such programs~~)). The plan shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

((~~(6)~~)) (5) The commute trip reduction plans adopted by counties, cities, and towns under this chapter shall be consistent with and may be incorporated in applicable state or regional transportation plans and local comprehensive plans and shall be coordinated, and consistent with, the commute trip reduction plans of counties, cities, or towns with which the county, city, or town has, in part, common borders or related regional issues. Such regional issues shall include assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction. Counties, cities, ((~~or~~)) and towns adopting commute trip reduction plans may enter into agreements through the interlocal cooperation act or by resolution or ordinance as appropriate with other jurisdictions, local transit agencies, transportation management associations or other private or nonprofit providers of transportation services, or regional transportation planning organizations to coordinate the development and implementation of such plans. Transit agencies shall work with counties, cities, and towns as a part of their six-year transit development plan established in RCW 35.58.2795 to take into account the location of major employer worksites when planning and prioritizing transit service changes or the expansion of public transportation services, including rideshare services. Counties, cities, or towns adopting a commute trip reduction plan shall review it annually and revise it as necessary to be consistent with applicable plans developed under RCW 36.70A.070. Regional transportation planning organizations shall review the local commute trip reduction plans during the development and update of the regional commute trip reduction plan.

(6) Each affected regional transportation planning organization shall adopt a commute trip reduction plan for its region consistent

with the rules and deadline established by the department of transportation under RCW 70.94.537. The plan shall include, but is not limited to: (a) Regional program goals for commute trip reduction in urban growth areas and all designated growth and transportation efficiency centers; (b) a description of strategies for achieving the goals; (c) a sustainable financial plan describing projected revenues and expenditures to meet the goals; (d) a description of the way in which progress toward meeting the goals will be measured; and (e) minimum criteria for growth and transportation efficiency centers. (i) Regional transportation planning organizations shall review proposals from local jurisdictions to designate growth and transportation efficiency centers and shall determine whether the proposed growth and transportation efficiency center is consistent with the criteria defined in the regional commute trip reduction plan. (ii) Growth and transportation efficiency centers certified as consistent with the minimum requirements by the regional transportation planning organization shall be identified in subsequent updates of the regional commute trip reduction plan. These plans shall be developed in collaboration with all affected local jurisdictions, transit agencies, and other interested parties within the region. The plan will be reviewed and approved by commute trip reduction board as established under RCW 70.94.537. Regions without an approved regional commute trip reduction plan shall not be eligible for state commute trip reduction program funds.

The regional commute trip reduction plan shall be consistent with and incorporated into transportation demand management components in the regional transportation plan as required by RCW 47.80.030.

(7) Each ((~~county, city, or town~~)) regional transportation planning organization implementing a regional commute trip reduction program shall, ((~~within thirty days submit a summary of its plan along with certification of adoption~~)) consistent with the rules and deadline established by the department of transportation, submit its plan as well as any related local commute trip reduction plans and certified growth and transportation efficiency center programs, to the commute trip reduction ((~~task force~~)) board established under RCW 70.94.537. The commute trip reduction board shall review the regional commute trip reduction plan and the local commute trip reduction plans. The regional transportation planning organization shall collaborate with

the commute trip reduction board to evaluate the consistency of local commute trip reduction plans with the regional commute trip reduction plan. Local and regional plans must be approved by the commute trip reduction board in order to be eligible for state funding provided for the purposes of this chapter.

(8) Each ((~~county, city, or town~~)) regional transportation planning organization implementing a regional commute trip reduction program shall submit an annual progress report to the commute trip reduction ((~~task force~~)) board established under RCW 70.94.537. The report shall be due ((~~July 1, 1994, and each July 1st thereafter through July 1, 2006~~)) at the end of each state fiscal year for which the program has been implemented. The report shall describe progress in attaining the applicable commute trip reduction goals ((~~for each commute trip reduction zone~~)) and shall highlight any problems being encountered in achieving the goals. The information shall be reported in a form established by the commute trip reduction ((~~task force~~)) board.

(9) Any waivers or modifications of the requirements of a commute trip reduction plan granted by a jurisdiction shall be submitted for review to the commute trip reduction ((~~task force~~)) board established under RCW 70.94.537. The commute trip reduction ((~~task force~~)) board may not deny the granting of a waiver or modification of the requirements of a commute trip reduction plan by a jurisdiction but they may notify the jurisdiction of any comments or objections.

(10) ((~~Each county, city, or town implementing a commute trip reduction program shall count commute trips eliminated through work at home options or alternate work schedules as one and two tenths vehicle trips eliminated for the purpose of meeting trip reduction goals.~~

~~(11) Each county, city, or town implementing a commute trip reduction program shall ensure that employers that have modified their employees' work schedules so that some or all employees are not scheduled to arrive at work between 6:00 a.m. and 9:00 a.m. are provided credit when calculating single occupancy vehicle use and vehicle miles traveled at that worksite. This credit shall be awarded if implementation of the schedule change was an identified element in that worksite's approved commute trip reduction program or if the schedule change occurred because of impacts associated with chapter 36.70A RCW, the growth management act.~~

~~(12)~~)) Plans implemented under this section shall not apply to commute trips for seasonal agricultural employees.

((~~(13)~~)) (11) Plans implemented under this section shall not apply to construction worksites when the expected duration of the construction project is less than two years.

(12) If an affected urban growth area has not previously implemented a commute trip reduction program and the state has funded solutions to state highway deficiencies to address the area's exceeding the person hours of delay threshold, the affected urban growth area shall be exempt from the duties of this section for a period not exceeding two years.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.94 RCW to read as follows:

Nothing in this act preempts the ability of state employees to collectively bargain over commute trip reduction issues, including parking fees under chapter 41.80 RCW, or the ability of private sector employees to collectively bargain over commute trip reduction issues if previously such issues were mandatory subjects of collective bargaining.

NEW SECTION. **Sec. 4.** A new section is added to chapter 70.94 RCW to read as follows:

(1) A county, city, or town may, as part of its commute trip reduction plan, designate existing activity centers listed in its comprehensive plan or new activity centers as growth and transportation efficiency centers and establish a transportation demand management program in the designated area.

(a) The transportation demand management program for the growth and transportation efficiency center shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

(b) In order to be eligible for state funding provided for the purposes of this section, designated growth and transportation efficiency centers shall be certified by the applicable regional transportation organization to: (i) Meet the minimum land use and transportation criteria established in collaboration among local jurisdictions, transit agencies, the regional transportation planning

organization, and other interested parties as part of the regional commute trip reduction plan; and (ii) have established a transportation demand management program that includes the elements identified in (c) of this subsection and is consistent with the rules established by the department of transportation in RCW 70.94.537(2). If a designated growth and transportation efficiency center is denied certification, the local jurisdiction may appeal the decision to the commute trip reduction board.

(c) Transportation demand management programs for growth and transportation efficiency centers shall include, but are not limited to: (i) Goals for reductions in the proportion of single-occupant vehicle trips that are more aggressive than the state program goal established by the commute trip reduction board; (ii) a sustainable financial plan demonstrating how the program can be implemented to meet state and regional trip reduction goals, indicating resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommending any innovative financing techniques consistent with chapter 47.29 RCW, including public/private partnerships, to finance needed facilities, services, and programs; (iii) a proposed organizational structure for implementing the program; (iv) a proposal to measure performance toward the goal and implementation progress; and (v) an evaluation to which local land use and transportation policies apply, including parking policies and ordinances, to determine the extent that they complement and support the trip reduction investments of major employers. Each of these program elements shall be consistent with the rules established under RCW 70.94.537.

(d) A designated growth and transportation efficiency center shall be consistent with the land use and transportation elements of the local comprehensive plan.

(e) Transit agencies, local governments, and regional transportation planning organizations shall identify certified growth and transportation efficiency centers as priority areas for new service and facility investments in their respective investment plans.

(2) A county, city, or town that has established a growth and transportation efficiency center program shall support vehicle trip reduction activities in the designated area. The implementing

jurisdiction shall adopt policies, ordinances, and funding strategies that will lead to attainment of program goals in those areas.

**Sec. 5.** RCW 70.94.531 and 1997 c 250 s 3 are each amended to read as follows:

(1) State agency worksites are subject to the same requirements under this section and RCW 70.94.534 as private employers.

(2) Not more than ((~~six months~~)) ninety days after the adoption of ((~~the~~)) a jurisdiction's commute trip reduction plan ((~~by a jurisdiction~~)), each major employer in that jurisdiction shall perform a baseline measurement consistent with the rules established by the department of transportation under RCW 70.94.537. Not more than ninety days after receiving the results of the baseline measurement, each major employer shall develop a commute trip reduction program and shall submit a description of that program to the jurisdiction for review. The program shall be implemented not more than ((~~six months~~)) ninety days after ((~~submission to~~)) approval by the jurisdiction.

((~~(2)~~)) (3) A commute trip reduction program of a major employer shall consist of, at a minimum (a) designation of a transportation coordinator and the display of the name, location, and telephone number of the coordinator in a prominent manner at each affected worksite; (b) regular distribution of information to employees regarding alternatives to single-occupant vehicle commuting; (c) ((~~an annual~~)) a regular review of employee commuting and reporting of progress toward meeting the single-occupant vehicle reduction goals to the county, city, or town consistent with the method established in the commute trip reduction plan and the rules established by the department of transportation under RCW 70.94.537; and (d) implementation of a set of measures designed to achieve the applicable commute trip reduction goals adopted by the jurisdiction. Such measures may include but are not limited to:

(i) Provision of preferential parking or reduced parking charges, or both, for high occupancy vehicles;

(ii) Instituting or increasing parking charges for single-occupant vehicles;

(iii) Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;

(iv) Provision of subsidies for transit fares;

(v) Provision of vans for van pools;

(vi) Provision of subsidies for car pooling or van pooling;

(vii) Permitting the use of the employer's vehicles for car pooling or van pooling;

(viii) Permitting flexible work schedules to facilitate employees' use of transit, car pools, or van pools;

(ix) Cooperation with transportation providers to provide additional regular or express service to the worksite;

(x) Construction of special loading and unloading facilities for transit, car pool, and van pool users;

(xi) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

(xii) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facility;

(xiii) Establishment of a program to permit employees to work part or full time at home or at an alternative worksite closer to their homes;

(xiv) Establishment of a program of alternative work schedules such as compressed work week schedules which reduce commuting; and

(xv) Implementation of other measures designed to facilitate the use of high-occupancy vehicles such as on-site day care facilities and emergency taxi services.

((~~(3)~~)) (4) Employers or owners of worksites may form or utilize existing transportation management associations or other transportation-related associations authorized by RCW 35.87A.010 to assist members in developing and implementing commute trip reduction programs.

((~~(4)~~)) (5) Employers shall make a good faith effort towards achievement of the goals identified in RCW 70.94.527(4)((~~(g)~~)) (d).

**Sec. 6.** RCW 70.94.534 and 1997 c 250 s 4 are each amended to read as follows:

(1) Each jurisdiction implementing a commute trip reduction plan under this chapter or as part of a plan or ordinance developed under RCW 36.70A.070 shall review each employer's initial commute trip reduction program to determine if the program is likely to meet the applicable commute trip reduction goals. The employer shall be notified by the jurisdiction of its findings. If the jurisdiction

finds that the program is not likely to meet the applicable commute trip reduction goals, the jurisdiction will work with the employer to modify the program as necessary. The jurisdiction shall complete review of each employer's initial commute trip reduction program within ((~~three months~~)) ninety days of receipt.

(2) Employers implementing commute trip reduction programs are expected to undertake good faith efforts to achieve the goals outlined in RCW 70.94.527(4). Employers are considered to be making a good faith effort if the following conditions have been met:

(a) The employer has met the minimum requirements identified in RCW 70.94.531; ((~~and~~))

(b) The employer has notified the jurisdiction of its intent to substantially change or modify its program and has either received the approval of the jurisdiction to do so or has acknowledged that its program may not be approved without additional modifications;

(c) The employer has provided adequate information and documentation of implementation when requested by the jurisdiction; and

(d) The employer is working collaboratively with its jurisdiction to continue its existing program or is developing and implementing program modifications likely to result in improvements to the program over an agreed upon length of time.

(3) Each jurisdiction shall ((~~annually~~)) review at least once every two years each employer's progress and good faith efforts toward meeting the applicable commute trip reduction goals. If an employer makes a good faith effort, as defined in this section, but is not likely to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to make modifications to the commute trip reduction program. Failure of an employer to reach the applicable commute trip reduction goals is not a violation of this chapter.

(4) If an employer fails to make a good faith effort and fails to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to propose modifications to the program and shall direct the employer to revise its program within thirty days to incorporate those modifications or modifications which the jurisdiction determines to be equivalent.

(5) Each jurisdiction implementing a commute trip reduction plan pursuant to this chapter may impose civil penalties, in the manner

provided in chapter 7.80 RCW, for failure by an employer to implement a commute trip reduction program or to modify its commute trip reduction program as required in subsection (4) of this section. No major employer may be held liable for civil penalties for failure to reach the applicable commute trip reduction goals. No major employer shall be liable for civil penalties under this chapter if failure to achieve a commute trip reduction program goal was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith.

(6) Jurisdictions shall notify major employers of the procedures for applying for goal modification or exemption from the commute trip reduction requirements based on the guidelines established by the commute trip reduction ((~~task force~~)) board authorized under RCW 70.94.537.

**Sec. 7.** RCW 70.94.537 and 1997 c 250 s 5 are each amended to read as follows:

(1) A ((~~twenty-eight~~)) sixteen member state commute trip reduction ((~~task force~~)) board is established as follows:

(a) The secretary of the department of transportation or the secretary's designee who shall serve as chair;

(b) ((~~The director of the department of ecology or the director's designee;~~

~~(c) The director of the department of community, trade, and economic development or the director's designee;~~

~~(d) The director of the department of general administration or the director's designee;~~

~~(e) Three representatives from~~)) One representative from the office of the governor or the governor's designee;

(c) The director or the director's designee of one of the following agencies, to be determined by the governor:

(i) Department of general administration;

(ii) Department of ecology;

(iii) Department of community, trade, and economic development;

(d) Three representatives from cities and towns or counties appointed by the governor for staggered four-year terms from a list

((~~of at least six~~)) recommended by the association of Washington cities or the Washington state association of counties;

((~~(f) Three representatives from cities and towns appointed by the governor from a list of at least six recommended by the association of Washington cities;~~

~~(g) Three~~)) (e) Two representatives from transit agencies appointed by the governor for staggered four-year terms from a list ((~~of at least six~~)) recommended by the Washington state transit association;

((~~(h) Twelve~~)) (f) Two representatives from participating regional transportation planning organizations appointed by the governor for staggered four-year terms;

(g) Four representatives of employers at or owners of major worksites in Washington, or transportation management associations, business improvement areas, or other transportation organizations representing employers, appointed by the governor ((~~from a list recommended by the association of Washington business or other statewide business associations representing major employers, provided that every affected county shall have at least one representative; and~~

~~(i) Three~~)) for staggered four-year terms; and

(h) Two citizens appointed by the governor for staggered four-year terms.

Members of the commute trip reduction ((~~task force~~)) board shall serve without compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members appointed by the governor shall be compensated in accordance with RCW 43.03.220. The ((~~task force~~)) board has all powers necessary to carry out its duties as prescribed by this chapter. ((~~The task force shall be dissolved on July 1, 2006.~~))

(2) By March 1, ((~~1992~~)) 2007, the ((~~commute trip reduction task force~~)) department of transportation shall establish ((~~guidelines~~)) rules for commute trip reduction plans and implementation procedures. The commute trip reduction board shall advise the department on the content of the rules. The ((~~guidelines~~)) rules are intended to ensure consistency in commute trip reduction plans and goals among jurisdictions while fairly taking into account differences in employment and housing density, employer size, existing and anticipated levels of transit service, special employer circumstances, and other

factors the ((~~task force~~)) board determines to be relevant. The ((~~guidelines~~)) rules shall include:

(a) Guidance criteria for ((~~establishing commute trip reduction zones~~)) growth and transportation efficiency centers;

(b) ((~~Methods and information requirements for determining base year values of the proportion of single occupant vehicle commute trips and the commute trip vehicle miles traveled per employee~~)) Data measurement methods and procedures for determining the efficacy of commute trip reduction activities and progress toward meeting commute trip reduction plan goals;

(c) Model commute trip reduction ordinances;

(d) Methods for assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction;

(e) An appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of a commute trip reduction plan, may obtain a waiver or modification of those requirements and criteria for determining eligibility for waiver or modification;

(f) ((~~Methods to ensure that employers shall receive full credit for the results of transportation demand management efforts and commute trip reduction programs which have been implemented by major employers prior to the base year;~~

~~(g) Alternative commute trip reduction goals for major employers which cannot meet the goals of this chapter because of the unique nature of their business;~~

~~(h) Alternative commute trip reduction goals for major employers whose worksites change and who contribute substantially to traffic congestion in a trip reduction zone; and~~

~~(i) Methods to insure that employers receive credit for scheduling changes enacted pursuant to the criteria identified in RCW 70.94.527(11).~~

~~(3)~~)) Establishment of a process for determining the state's affected areas, including criteria and procedures for regional transportation planning organizations in consultation with local jurisdictions to propose to add or exempt urban growth areas;

(g) Listing of the affected areas of the program to be done every four years as identified in subsection (5) of this section;

(h) Establishment of a criteria and application process to determine whether jurisdictions that voluntarily implement commute trip reduction are eligible for state funding;

(i) Guidelines and deadlines for creating and updating local commute trip reduction plans, including guidance to ensure consistency between the local commute trip reduction plan and the transportation demand management strategies identified in the transportation element in the local comprehensive plan, as required by RCW 36.70A.070.

(j) Guidelines for creating and updating regional commute trip reduction plans, including guidance to ensure the regional commute trip reduction plan is consistent with and incorporated into transportation demand management components in the regional transportation plan;

(k) Methods for regional transportation planning organizations to evaluate and certify that designated growth and transportation efficiency center programs meet the minimum requirements and are eligible for funding;

(l) Guidelines for creating and updating growth and transportation efficiency center programs; and

(m) Establishment of statewide program goals. The goals shall be designed to achieve substantial reductions in the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee, at a level that is projected to improve the mobility of people and goods by increasing the efficiency of the state highway system.

(3) The board shall create a state commute trip reduction plan that shall be updated every four years as discussed in subsection (5) of this section. The state commute trip reduction plan shall include, but is not limited to: (a) Statewide commute trip reduction program goals that are designed to substantially improve the mobility of people and goods; (b) identification of strategies at the state and regional levels to achieve the goals and recommendations for how transportation demand management strategies can be targeted most effectively to support commute trip reduction program goals; (c) performance measures for assessing the cost-effectiveness of commute trip reduction strategies and the benefits for the state transportation system; and (d) a sustainable financial plan. The board shall review and approve regional commute trip reduction plans, and work collaboratively with

regional transportation planning organizations in the establishment of the state commute trip reduction plan.

(4) The ((~~task force~~)) board shall work with affected jurisdictions, major employers, and other parties to develop and implement a public awareness campaign designed to increase the effectiveness of local commute trip reduction programs and support achievement of the objectives identified in this chapter.

((~~(4) The task force shall assess the commute trip reduction options available to employers other than major employers and make recommendations to the legislature by October 1, 1992. The recommendations shall include the minimum size of employer who shall be required to implement trip reduction programs and the appropriate methods those employers can use to accomplish trip reduction goals.~~))

(5) The board shall evaluate and update the commute trip reduction program plan and recommend changes to the rules every four years, with the first assessment report due July 1, 2011, to ensure that the latest data methodology used by the department of transportation is incorporated into the program and to determine which areas of the state should be affected by the program. The board shall review the definition of a major employer no later than December 1, 2009. The board shall regularly identify urban growth areas that are projected to be affected by this act in the next four-year period and may provide advance planning support to the potentially affected jurisdictions.

(6) The ((~~task force~~)) board shall review progress toward implementing commute trip reduction plans and programs and the costs and benefits of commute trip reduction plans and programs and shall make recommendations to the legislature and the governor by December 1, ((~~1995, December 1, 1999, December 1, 2001, December 1, 2003, and December 1, 2005~~)) 2009, and every two years thereafter. In assessing the costs and benefits, the ((~~task force~~)) board shall consider the costs of not having implemented commute trip reduction plans and programs with the assistance of the transportation performance audit board authorized under chapter 44.75 RCW. The ((~~task force~~)) board shall examine other transportation demand management programs nationally and incorporate its findings into its recommendations to the legislature. The recommendations shall address the need for continuation, modification, or termination or any or all requirements of this chapter. ((~~The recommendations made December 1, 1995, shall~~

~~include recommendations regarding extension of the requirements of this chapter to employers with fifty or more full time employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for more than twelve continuous months.~~))

(7) The board shall invite personnel with appropriate expertise from state, regional, and local government, private, public, and nonprofit providers of transportation services, and employers or owners of major worksites in Washington to act as a technical advisory group. The technical advisory group shall advise the board on the implementation of local and regional commute trip reduction plans and programs, program evaluation, program funding allocations, and state rules and guidelines.

**Sec. 8.** RCW 70.94.541 and 1996 c 186 s 515 are each amended to read as follows:

(1) ((~~A technical assistance team shall be established under the direction of the department of transportation and include representatives of the department of ecology.~~)) The ((~~team~~)) department of transportation shall provide staff support to the commute trip reduction ((~~task force~~)) board in carrying out the requirements of RCW 70.94.537 ((~~and to the department of general administration in carrying out the requirements of RCW 70.94.551~~)).

(2) The ((~~team~~)) department of transportation shall provide technical assistance to regional transportation planning organizations, counties, cities, and towns, the department of general administration, other state agencies, and other employers in developing and implementing commute trip reduction plans and programs. The technical assistance shall include: (a) Guidance in ((~~determining base and subsequent year values of single occupant vehicle commuting proportion and commute trip reduction vehicle miles traveled to be used in determining progress in attaining plan goals~~)) single measurement methodology and practice to be used in determining progress in attaining plan goals; (b) developing model plans and programs appropriate to different situations; and (c) providing consistent training and informational materials for the implementation of commute trip reduction programs. Model plans and programs, training, and informational materials shall be developed in cooperation with

representatives of regional transportation planning organizations, local governments, transit agencies, and employers.

(3) In carrying out this section the department of transportation may contract with statewide associations representing cities, towns, and counties to assist cities, towns, and counties in implementing commute trip reduction plans and programs.

**Sec. 9.** RCW 70.94.544 and 2001 c 74 s 1 are each amended to read as follows:

A portion of the funds made available for the purposes of this chapter shall be used to fund the commute trip reduction ((~~task force~~)) board in carrying out the responsibilities of RCW ((~~70.94.541~~)) 70.94.537, and the ((~~interagency technical assistance team~~)) department of transportation, including the activities authorized under RCW 70.94.541(2), and to assist regional transportation planning organizations, counties, cities, and towns implementing commute trip reduction plans. The commute trip reduction board shall determine the allocation of program funds made available for the purposes of this chapter to regional transportation planning organizations, counties, cities, and towns implementing commute trip reduction plans. If state funds for the purposes of this chapter are provided to those jurisdictions implementing voluntary commute trip reduction plans, the funds shall be disbursed based on criteria established by the commute trip reduction board under RCW 70.94.537.

**Sec. 10.** RCW 70.94.547 and 1991 c 202 s 18 are each amended to read as follows:

The legislature hereby recognizes the state's crucial leadership role in establishing and implementing effective commute trip reduction programs. Therefore, it is the policy of the state that the department of general administration and other state agencies, including institutions of higher education, shall aggressively develop substantive programs to reduce commute trips by state employees. Implementation of these programs will reduce energy consumption, congestion in urban areas, and air and water pollution associated with automobile travel.

**Sec. 11.** RCW 70.94.551 and 1997 c 250 s 6 are each amended to read as follows:

(1) The director of ((~~general administration, with the concurrence of an interagency task force established for the purposes of this section, shall coordinate a commute trip reduction plan for state agencies which are phase 1 major employers by January 1, 1993~~)) the department of general administration may coordinate an interagency board for the purpose of developing policies or guidelines that promote consistency among state agency commute trip reduction programs required by RCW 70.94.527 and 70.94.531. The ((~~task force~~)) board shall include representatives of the departments of transportation ((~~and~~)), ecology, and community, trade, and economic development and such other departments and interested groups as the director of the department of general administration determines to be necessary ((~~to be generally representative of state agencies. The state agency plan shall be consistent with the requirements of RCW 70.94.527 and 70.94.531 and shall be developed in consultation with state employees, local and regional governments, local transit agencies, the business community, and other interested groups. The plan shall consider and recommend~~)). Policies and guidelines shall be applicable to all state agencies including but not limited to policies and guidelines regarding parking and parking charges, employee incentives for commuting by other than single-occupant automobiles, flexible and alternative work schedules, alternative worksites, and the use of state-owned vehicles for car and van pools and guaranteed rides home. The ((~~plan~~)) policies and guidelines shall also consider the costs and benefits to state agencies of achieving commute trip reductions and consider mechanisms for funding state agency commute trip reduction programs. ((~~The department shall, within thirty days, submit a summary of its plan along with certification of adoption to the commute trip reduction task force established under RCW 70.94.537.~~))

(2) ((~~Not more than three months after the adoption of the commute trip reduction plan, each state agency shall, for each facility which is a major employer, develop a commute trip reduction program. The program shall be designed to meet the goals of the commute trip reduction plan of the county, city, or town or, if there is no local commute trip reduction plan, the state. The program shall be consistent with the policies of the state commute trip reduction plan~~

~~and RCW 70.94.531. The agency shall submit a description of that program to the local jurisdiction implementing a commute trip reduction plan or, if there is no local commute trip reduction plan, to the department of general administration. The program shall be implemented not more than three months after submission to the department. Annual reports required in RCW 70.94.531(2)(c) shall be submitted to the local jurisdiction implementing a commute trip reduction plan and to the department of general administration. An agency which is not meeting the applicable commute trip reduction goals shall, to the extent possible, modify its program to comply with the recommendations of the local jurisdiction or the department of general administration.~~

~~(3)~~)) State agencies sharing a common location ((~~may~~)) in affected urban growth areas where the total number of state employees is one hundred or more shall, with assistance from the department of general administration, develop and implement a joint commute trip reduction program ((~~or may delegate the development and implementation of the commute trip reduction program to the department of general administration~~)). The worksite shall be treated as specified in RCW 70.94.531 and 70.94.534.

((~~(4)~~)) (3) The department of general administration ((~~in consultation with the state technical assistance team~~)) shall review the initial commute trip reduction program of each state agency subject to the commute trip reduction plan for state agencies to determine if the program is likely to meet the applicable commute trip reduction goals and notify the agency of any deficiencies. If it is found that the program is not likely to meet the applicable commute trip reduction goals, the ((~~team~~)) department of general administration will work with the agency to modify the program as necessary.

((~~(5) For each agency subject to the state agency commute trip reduction plan, the department of general administration in consultation with the technical assistance team shall annually review progress toward meeting the applicable commute trip reduction goals. If it appears an agency is not meeting or is not likely to meet the applicable commute trip reduction goals, the team shall work with the agency to make modifications to the commute trip reduction program.~~

~~(6)~~)) (4) Each state agency implementing a commute trip reduction plan shall report at least once per year to its agency director on the performance of the agency's commute trip reduction program as part of

the agency's quality management, accountability, and performance system as defined by RCW 43.17.385. The reports shall assess the performance of the program, progress toward state goals established under RCW 70.94.537, and recommendations for improving the program.

(5) The department of general administration shall review the agency performance reports defined in subsection (4) of this section and submit ((~~an annual progress~~)) a biennial report for state agencies subject to ((~~the state agency commute trip reduction plan to the commute trip reduction task force established under RCW 70.94.537. The report shall be due April 1, 1993, and each April 1st through 2006. The report shall report progress in attaining the applicable commute trip reduction goals for each commute trip reduction zone and shall highlight any problems being encountered in achieving the goals~~)) this chapter to the governor and incorporate the report in the commute trip reduction board report to the legislature as directed in RCW 70.94.537(6). The report shall include, but is not limited to, an evaluation of the most recent measurement results, progress toward state goals established under RCW 70.94.537, and recommendations for improving the performance of state agency commute trip reduction programs. The information shall be reported in a form established by the commute trip reduction ((~~task force~~)) board.

--- **END** ---

# APPENDIX H

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1694**

60th Legislature
2007 Regular Session

Passed by the House April 19, 2007
Yeas 97 Nays 0

**Speaker of the House of Representatives**

Passed by the Senate April 17, 2007
Yeas 46 Nays 0

**President of the Senate**

Approved

**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1694** as passed by the House of Representatives and the Senate on the dates hereon set forth.

**Chief Clerk**

FILED

**Secretary of State**
**State of Washington**

# SUBSTITUTE HOUSE BILL 1694

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

**State of Washington 60th Legislature 2007 Regular Session**

**By** House Committee on Transportation (originally sponsored by Representatives Flannigan, Upthegrove and Kenney)

READ FIRST TIME 2/28/07.

AN ACT Relating to the agency council on coordinated transportation; amending RCW 47.06B.010, 47.06B.020, 47.06B.040, 47.80.023, 47.06B.900, and 47.06B.901; reenacting and amending RCW 47.06B.030; adding a new section to chapter 47.06B RCW; creating a new section; repealing RCW 47.06B.015; and repealing 1999 c 372 s 13.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec. 1.** RCW 47.06B.010 and 1999 c 385 s 1 are each amended to read as follows:

The legislature finds that transportation systems for persons with special needs are not operated as efficiently as possible. In ((~~some~~)) too many cases, programs established by the legislature to assist persons with special needs can not be accessed due to these inefficiencies and coordination barriers.

It is the intent of the legislature that public transportation agencies, pupil transportation programs, private nonprofit transportation providers, and other public agencies sponsoring programs that require transportation services coordinate those transportation services. Through coordination of transportation services, programs

will achieve increased efficiencies and will be able to provide more rides to a greater number of persons with special needs.

**Sec. 2.** RCW 47.06B.020 and 1998 c 173 s 2 are each amended to read as follows:

(1) The agency council on coordinated transportation is created. The council is composed of ((~~nine~~)) ten voting members and ((~~eight~~)) four nonvoting, legislative members.

(2) The ((~~nine~~)) ten voting members are the superintendent of public instruction or a designee, the secretary of transportation or a designee, the secretary of the department of social and health services or a designee, and ((~~six~~)) seven members appointed by the governor as follows:

(a) One representative from the office of the governor;

(b) ((~~Two~~)) Three persons who are consumers of special needs transportation services, which must include:

(i) One person designated by the executive director of the governor's committee on disability issues and employment; and

(ii) One person who is designated by the executive director of the developmental disabilities council;

(c) One representative from the Washington association of pupil transportation;

(d) One representative from the Washington state transit association; and

(e) One of the following:

(i) A representative from the community transportation association of the Northwest; or

(ii) A representative from the community action council association.

(3) The ((~~eight~~)) four nonvoting members are legislators as follows:

(a) ((~~Four~~)) Two members from the house of representatives, ((~~two~~)) one from each of the two largest caucuses, appointed by the speaker of the house of representatives, ((~~two who are members of~~)) including at least one member from the house transportation policy and budget committee ((~~and two who are members of~~)) or the house appropriations committee; and

(b) ((~~Four~~)) Two members from the senate, ((~~two~~)) one from each of the two largest caucuses, appointed by the president of the senate, ((~~two members of~~)) including at least one member from the senate transportation committee ((~~and two members of~~)) or the senate ways and means committee.

(4) Gubernatorial appointees of the council will serve two-year terms. Members may not receive compensation for their service on the council, but will be reimbursed for actual and necessary expenses incurred in performing their duties as members as set forth in RCW 43.03.220.

(5) The secretary of transportation or a designee shall serve as the chair.

(6) The department of transportation shall provide necessary staff support for the council.

(7) The council may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the council and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17.710.

(8) The meetings of the council must be open to the public, with the agenda published in advance, and minutes kept and made available to the public. The public notice of the meetings must indicate that accommodations for persons with disabilities will be made available upon request.

(9) All meetings of the council must be held in locations that are readily accessible to public transportation, and must be scheduled for times when public transportation is available.

(10) The council shall make an effort to include presentations by and work sessions including persons with special transportation needs.

**Sec. 3.** RCW 47.06B.030 and 1999 c 385 s 5 are each reenacted and amended to read as follows:

(1) To assure implementation of ((~~the Program for~~)) an effective system of coordinated transportation that meets the needs of persons with special transportation needs, the agency council on coordinated transportation((~~, the council, in coordination with stakeholders,~~)) shall adopt a biennial work plan that must, at a minimum:

((~~(1) Develop guidelines for local planning of coordinated transportation in accordance with this chapter;~~

~~(2) Initiate local planning processes by contacting the board of commissioners and county councils in each county and encouraging them to convene local planning forums for the purpose of implementing special needs coordinated transportation programs at the community level;~~

~~(3) Work with local community forums to designate a local lead organization that shall cooperate and coordinate with private and nonprofit transportation brokers and providers, local public transportation agencies, local governments, and user groups;~~

~~(4) Provide a forum at the state level in which state agencies will discuss and resolve coordination issues and program policy issues that may impact transportation coordination and costs;~~

~~(5) Provide guidelines for state agencies to use in creating policies, rules, or procedures to encourage the participation of their constituents in community based planning and coordination, in accordance with this chapter;~~

~~(6) Facilitate state level discussion and action on problems and barriers identified by the local forums that can only be resolved at either the state or federal level;~~

~~(7) Develop and test models for determining the impacts of facility siting and program policy decisions on transportation costs;~~

~~(8) Develop methodologies and provide support to local and state agencies in identifying transportation costs;~~

~~(9) Develop guidelines for setting performance measures and evaluating performance;~~

~~(10) Develop monitoring reporting criteria and processes to assess state and local level of participation with this chapter;~~

~~(11) Administer and manage grant funds to develop, test, and facilitate the implementation of coordinated systems;~~

~~(12) Develop minimum standards for safety, driver training, and vehicles, and provide models for processes and technology to support coordinated service delivery systems;~~

~~(13) Provide a clearinghouse for sharing information about transportation coordination best practices and experiences;~~

~~(14) Promote research and development of methods and tools to improve the performance of transportation coordination in the state;~~

~~(15) Provide technical assistance and support to communities;~~

~~(16) Facilitate, monitor, provide funding as available, and give technical support to local planning processes;~~

~~(17) Form, convene, and give staff support to stakeholder work groups as needed to continue work on removing barriers to coordinated transportation;~~

~~(18) Advocate for the coordination of transportation for people with special transportation needs at the federal, state, and local levels;~~

~~(19) Recommend to the legislature changes in laws to assist coordination of transportation services;~~

~~(20) Petition the office of financial management to make whatever changes are deemed necessary to identify transportation costs in all executive agency budgets;~~

~~(21) Report to the legislature by December 1, 2000, on council activities including, but not limited to, the progress of community planning processes, what demonstration projects have been undertaken, how coordination affected service levels, and whether these efforts produced savings that allowed expansion of services. Reports must be made once every two years thereafter, and other times as the council deems necessary~~))

(a) Focus on projects that identify and address barriers in laws, policies, and procedures;

(b) Focus on results; and

(c) Identify and advocate for transportation system improvements for persons with special transportation needs.

(2) The council shall, as necessary, convene work groups at the state, regional, or local level to develop and implement coordinated approaches to special needs transportation.

(3) To improve the service experienced by persons with special transportation needs, the council shall develop statewide guidelines for customer complaint processes so that information about policies regarding the complaint processes is available consistently and consumers are appropriately educated about available options. To be eligible for funding on or after January 1, 2008, organizations applying for state paratransit/special needs grants as described in section 226(1), chapter 370, Laws of 2006 must implement a process following the guidelines established by the council.

(4) The council shall represent the needs and interests of persons with special transportation needs in statewide efforts for emergency and disaster preparedness planning by advising the emergency management council on how to address transportation needs for high-risk individuals during and after disasters.

**Sec. 4.** RCW 47.06B.040 and 1999 c 385 s 6 are each amended to read as follows:

((~~The council may request, and may require as a condition of receiving coordination grants, selected county governments to convene local planning forums and invite participation of all entities, including tribal governments, that serve or transport persons with special transportation needs. Counties are encouraged to coordinate and combine their forums and planning processes with other counties, as they find it appropriate. The local community forums must:~~

~~(1) Designate a lead organization to facilitate the community planning process on an ongoing basis;~~

~~(2) Identify functional boundaries for the local coordinated transportation system;~~

~~(3) Clarify roles and responsibilities of the various participants;~~

~~(4) Identify community resources and needs;~~

~~(5) Prepare a plan for developing a coordinated transportation system that meets the intent of this chapter, addresses community needs, and efficiently uses community resources to address unmet needs;~~

~~(6) Implement the community coordinated transportation plan;~~

~~(7) Develop performance measures consistent with council guidelines;~~

~~(8) Develop a reporting process consistent with council guidelines;~~

~~(9) Raise issues and barriers to the council when resolution is needed at either the state or federal level;~~

~~(10) Develop a process for open discussion and input on local policy and facility siting decisions that may have an impact on the special needs transportation costs and service delivery of other programs and agencies in the community.~~))

The agency council on coordinated transportation shall review and recommend certification of local plans developed by regional transportation planning organizations based on meeting federal requirements. Each regional transportation planning organization must

submit to the council an updated plan that includes the elements, consistent with federal planning requirements, identified by the council beginning on July 1, 2007, and every four years thereafter.

Each regional transportation planning organization must submit to the council every two years a prioritized regional human service and transportation project list.

**Sec. 5.** RCW 47.80.023 and 1998 c 171 s 8 are each amended to read as follows:

Each regional transportation planning organization shall have the following duties:

(1) Prepare and periodically update a transportation strategy for the region. The strategy shall address alternative transportation modes and transportation demand management measures in regional corridors and shall recommend preferred transportation policies to implement adopted growth strategies. The strategy shall serve as a guide in preparation of the regional transportation plan.

(2) Prepare a regional transportation plan as set forth in RCW 47.80.030 that is consistent with county-wide planning policies if such have been adopted pursuant to chapter 36.70A RCW, with county, city, and town comprehensive plans, and state transportation plans.

(3) Certify by December 31, 1996, that the transportation elements of comprehensive plans adopted by counties, cities, and towns within the region reflect the guidelines and principles developed pursuant to RCW 47.80.026, are consistent with the adopted regional transportation plan, and, where appropriate, conform with the requirements of RCW 36.70A.070.

(4) Where appropriate, certify that county-wide planning policies adopted under RCW 36.70A.210 and the adopted regional transportation plan are consistent.

(5) Develop, in cooperation with the department of transportation, operators of public transportation services and local governments within the region, a six-year regional transportation improvement program which proposes regionally significant transportation projects and programs and transportation demand management measures. The regional transportation improvement program shall be based on the programs, ~~projects~~, and transportation demand management measures of regional significance as identified by transit agencies, cities, and

counties pursuant to RCW 35.58.2795, 35.77.010, and 36.81.121, respectively. The program shall include a priority list of projects and programs, project segments and programs, transportation demand management measures, and a specific financial plan that demonstrates how the transportation improvement program can be funded. The program shall be updated at least every two years for the ensuing six-year period.

(6) Designate a lead planning agency to coordinate preparation of the regional transportation plan and carry out the other responsibilities of the organization. The lead planning agency may be a regional organization, a component county, city, or town agency, or the appropriate Washington state department of transportation district office.

(7) Review level of service methodologies used by cities and counties planning under chapter 36.70A RCW to promote a consistent regional evaluation of transportation facilities and corridors.

(8) Work with cities, counties, transit agencies, the department of transportation, and others to develop level of service standards or alternative transportation performance measures.

(9) Submit to the agency council on coordinated transportation, as provided in chapter 47.06B RCW, beginning on July 1, 2007, and every four years thereafter, an updated plan that includes the elements identified by the council. Each regional transportation planning organization must submit to the council every two years a prioritized regional human service and transportation project list.

NEW SECTION. **Sec. 6.** A new section is added to chapter 47.06B RCW to read as follows:

The agency council on coordinated transportation shall submit a progress report on council activities to the legislature by December 1, 2009, and every other year thereafter. The report must describe the council's progress in attaining the applicable goals identified in the council's biennial work plan and highlight any problems encountered in achieving these goals. The information will be reported in a form established by the council.

NEW SECTION. **Sec. 7.** (1) The joint transportation committee, in consultation with the agency council on coordinated transportation and

the joint legislative audit and review committee, as deemed appropriate by the committee, shall conduct a study and review the legal and programmatic changes and best practices necessary for effective coordination of transportation services at the regional level for persons with special transportation needs.

(2) The study shall:

(a) Include a comprehensive, statewide survey of existing transportation resources for persons with special transportation needs;

(b) Identify opportunities for improving coordination by determining a uniform system of:

(i) Measuring and reporting trip costs;

(ii) Provider billing practices;

(iii) Provider agreements and reporting requirements; and

(iv) Sharing eligibility information and trip requirements; and

(c) Make recommendations for:

(i) Improving access to customer services;

(ii) Integrating services of transportation service providers and brokers; and

(iii) Best practices to effectively coordinate transportation services for persons with special transportation needs.

(3) In conducting the study, the committee shall:

(a) Convene one or more meetings to consult with local and regional special needs transportation providers, brokers, users of transit services, representatives of nonprofit organizations that provide related transportation services, including hopelink, and representatives of other agencies and organizations, including the department of social and health services;

(b) Identify federal funding and related program barriers to improved coordination between state and federal programs and to reasonable cost sharing for those programs;

(c) Review and consider other relevant model coordinated special needs transportation systems throughout the nation as a source of best practices for Washington state, including the ACCESS transportation system in Pittsburgh, Pennsylvania;

(d) Evaluate using nontraditional service providers, such as public utility districts;

(e) Evaluate methods to influence facility siting decisions for

state agencies serving persons with special transportation needs in order to make facilities accessible; and

(f) Evaluate appropriate standards and strategies for a decentralized broker system, including the state's role in this system.

(4) The committee shall provide a draft final report to the transportation committees of the senate and the house of representatives by December 15, 2008.

**Sec. 8.** RCW 47.06B.900 and 1999 c 385 s 7 are each amended to read as follows:

The agency council on coordinated transportation is terminated on June 30, ((~~2007~~)) 2010, as provided in RCW 47.06B.901.

**Sec. 9.** RCW 47.06B.901 and 1999 c 385 s 8 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, ((~~2008~~)) 2011:

(1) RCW 47.06B.010 and 2007 c ... s 1 (section 1 of this act), 1999 c 385 s 1, & 1998 c 173 s 1;

(2) RCW 47.06B.012 and 1999 c 385 s 2;

(3) ((~~RCW 47.06B.015 and 1999 c 385 s 3;~~

~~(4)~~)) RCW 47.06B.020 and ((~~1999 c 385 s 4~~)) 2007 c ... s 2 (section 2 of this act) & 1998 c 173 s 2;

((~~(5)~~)) (4) RCW 47.06B.030 and 2007 c ... s 3 (section 3 of this act), 1999 c 385 s 5, & 1998 c 173 s 3; ((~~and~~

~~(6)~~)) (5) RCW 47.06B.040 and 2007 c ... s 4 (section 4 of this act) & 1999 c 385 s 6; and

(6) Section 6 of this act.

NEW SECTION. **Sec. 10.** 1999 c 372 s 13 is repealed.

NEW SECTION. **Sec. 11.** RCW 47.06B.015 (Program for Agency Coordinated Transportation) and 1999 c 385 s 3 are each repealed.

--- END ---